United Nations A/CONF.217/2

General Assembly

Distr.: General
10 May 2012
English
Original: Arabic/English/French/
Spanish

United Nations Conference on the Arms Trade Treaty
New York, 2-27 July 2012

Compilation of views on the elements of an arms trade treaty

Background document prepared by the Secretariat

Summary

The present compilation of views is submitted pursuant to paragraph 26 (C) of the report of the Preparatory Committee for the United Nations Conference on the Arms Trade Treaty (A/CONF.217/1). The document contains information received from participating States on the subject.

Contents

Page

I. Introduction 2

II. Information received from States 2

12-33678 (E) 310512 140612

Please recycle

I. Introduction

1. Pursuant to the decision contained in paragraph 26 (C) of the report of the Preparatory Committee for the United Nations Conference on the Arms Trade Treaty (A/CONF.217/1), the Preparatory Committee invited those participating States wishing to do so to submit focused views, of no more than 1,500 words, on the elements of an arms trade treaty, such as those enumerated in paragraph 17 of the aforementioned report, by 31 March 2012, without prejudice to their right to put forward additional proposals during the Conference.

2. The Preparatory Committee further requested the Secretary-General to prepare, as one of the background documents for the Conference, a compilation of these views, organized accordingly, to be made available no later than 31 May 2012.

3. On 1 March 2012, the Secretariat sent out a note verbale to Member States seeking their views. In order to facilitate the organization of views in accordance with the request made by the Preparatory Committee, the Secretariat made available, as an annex to the aforementioned note verbale, a suggested structure based on the list of elements enumerated in paragraph 17 of the report of the Preparatory Committee.

4. The views submitted by States did not, however, follow a consistent structure, with only some submitted according to the elements enumerated in paragraph 17.

5. Therefore, in order to ensure the faithful representation of the views received from States, section II of the present report contains a compilation of the unaltered views as submitted by the following States: Algeria, Armenia, Australia, Austria, Belgium, Bulgaria, Canada, Chile, Costa Rica, Cuba, Denmark, Ecuador, France, Germany, India, Indonesia, Ireland, Japan, Kenya, Liechtenstein, Malawi, Malaysia, Mauritania (on behalf of the League of Arab States), Mexico, the Netherlands, New Zealand, Nigeria, Norway, Pakistan, Poland, Portugal, Republic of Korea, Saudi Arabia, Singapore, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago (on behalf of the Caribbean Community), Ukraine, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of), Viet Nam, Zambia, the Holy See and the European Union.

II. Information received from States

Algeria

[Original: French]
[29 March 2012]

I. Preamble

1. Recognizing that the purpose of the arms trade treaty is to establish objective standards that will regulate the transfer of conventional arms and that the treaty must be part of a consensual process in order to ensure its universal and effective implementation,

2. Deeply concerned at the consequences of illicit trafficking in conventional arms by non-State actors,

II. Principles

1. Assuming that since the future arms trade treaty must facilitate the legal trade in arms and prevent their illicit transfer and trafficking, it should be founded on:

- The purposes and principles of the Charter of the United Nations
- The right of self-defence in accordance with Article 51 of the Charter of the United Nations
- The right of all States to manufacture, import, export, transfer and possess conventional arms for their legitimate self-defence and security needs and for the maintenance of order
- The obligation for States to take steps to prevent the diversion of conventional arms from legal channels to the illicit market
- The need to prevent, combat and eradicate the illicit trade in conventional arms, including small arms and light weapons, and their ammunition.

III. Goals and objectives

1. The arms trade treaty will seek to establish the highest possible common international standards for the transfer of arms with a view to reducing the human suffering caused by the misuse of and illicit trade in arms, particularly small arms and light weapons.

2. Based on the central premise of the lawfulness of the international arms trade, the future treaty should:

- Simplify and regulate the arms trade and make it more secure
- Prevent, combat and eradicate illicit trafficking in all forms of conventional arms by non-State actors (including terrorists and criminal organizations)
- Combat the illicit arms trade in the context of armed conflicts not of an international character and any transaction carried out in violation of an embargo or other sanction imposed by the Security Council in accordance with the Charter of the United Nations
- Eliminate any criterion whose implementation might be seen as biased
- Aim to be universal and have the support of the major arms manufacturers and importers.

3. With the exception of the marking and tracing of arms, any attempt to harmonize national laws governing the export, import and transfer of arms would be difficult to achieve, and therefore futile.

IV. Scope

1. The scope of application of an arms trade treaty must be consistent with General Assembly resolution 64/48, paragraph 4, which provides for the drafting of "a legally binding instrument on the highest possible common international standards for the transfer of conventional arms".

2. While the resolution is not limited to a particular type of arms, the following categories should be included in the treaty:

- The seven categories of arms covered by the United Nations Register of Conventional Arms (General Assembly resolution 46/36 of 1991)
- Small arms and light weapons, which are the focus of the United Nations Programme of Action on small arms and light weapons and of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, adopted in July 2001 and December 2005, respectively, and related ammunition.

3. The following should be excluded from the scope of the arms trade treaty:

- Parts and components specially and exclusively designed for the maintenance of these categories of arms
- Technology and equipment specially and exclusively designed and used to develop, manufacture, maintain or upgrade items that fall within any of the aforementioned categories.

4. The only types of activities covered by the arms trade treaty should be inter-State or State-authorized arms transfers. Under no circumstances should such arms be transferred to non-State entities or bodies (this prohibition does not apply to national liberation movements) without a prior import authorization issued by the State in whose territory these entities or bodies are established.

5. Control and regulation activities should also be inapplicable to manufacture under licence, technical assistance and expertise, research and development and technology transfer.

6. Algeria does not support the inclusion in the scope of application of the treaty of internal transfers of arms, hunting or sport shooting arms used for recreational purposes, and collectors' weapons.

V. Criteria and parameters

1. The primary criterion of the arms trade treaty should be to ensure that arms transfers comply with the international legal obligations of the importing or exporting State concerned, and particularly with obligations arising from the Charter of the United Nations, United Nations Security Council resolutions on arms embargos, and other legally binding international or regional instruments to which the importing or exporting State is a party.

2. However, the arms trade treaty might establish by consensus a set of objective and measurable criteria for refusal to negotiate or to honour an arms transaction or transfer agreement. It is understood, however, that such refusals must be supported by evidence or concurrent reports from reliable, official sources rather than being based on mere suspicion.

3. While Algeria is a party to all the international human rights instruments, it does not support a human rights-based approach to regulating the arms trade, a reference to international humanitarian law or any other selective, arbitrary or discriminatory approach.

4. Any exporting State that invokes the provisions of the treaty as grounds for refusing to sell to another State party must prove that its decision was based on substantive evidence confirmed by a relevant United Nations organ.

5. Export must be refused where it would provoke or prolong armed conflicts or aggravate existing tensions or conflicts in the country of final destination.

6. It is also imperative to prevent the treaty process from becoming a means to the worldwide imposition of export control criteria and regimes adopted in restricted forums; this could be seen as a tool for political pressure and interference in States' internal affairs.

7. For the same reasons, the arms trade treaty should not establish standard checklists or attempt to categorize States.

VI. Implementation

1. Domestic implementation of the arms trade treaty should be the sole responsibility of States parties.

2. In the event of a dispute arising from different interpretations of the provisions of the treaty or of a refusal to honour a negotiated agreement, it is essential to establish appropriate procedures and mechanisms for settling disputes amicably and through dialogue.

3. With regard to monitoring implementation of the arms trade treaty, Algeria proposes that the instrument should provide for States parties' preparation of a simplified report assessing their own progress in implementation.

4. These reports would describe the measures taken in order to strengthen the State's legislative and regulatory framework, including in the area of criminal law, as well as the operational measures taken in order to combat trafficking.

5. Establishing a supranational monitoring or verification body and the use of non-State sources of information as a basis for action against a State suspected of violating the provisions of the treaty could damage the treaty's reputation and transform it into an instrument of political pressure.

6. In addition, regular review of the treaty would make it possible to evaluate its effectiveness and to modify it as needed.

VII. International cooperation and assistance

1. The arms trade treaty should include a mechanism for international cooperation and assistance through which States can request and receive help from other States or from international, regional and subregional bodies in order to meet their obligations under the treaty and to bring their legislative and regulatory framework into line with it.

2. In this regard, Algeria proposes that a secretariat should be established in order to monitor implementation of the treaty. It would be funded from voluntary contributions and from other sources, the possibility of which should be explored.

3. In the interim, we propose that the United Nations Office for Disarmament Affairs should be assigned to carry out the functions of secretariat for the treaty.

4. The reference in the treaty to the provision of assistance to victims is incompatible with the purpose and object of this instrument, especially since the victims of conflicts and of violence of any kind generally receive assistance from

their national Governments under domestic law, as well as from international humanitarian organizations.

VIII. Final provisions

C. Entry into force

1. This treaty shall not enter into force until 60 instruments of ratification, including those of the 10 countries considered to be the world's largest arms exporters, have been deposited.

D. Withdrawal and duration

1. Each State party shall have the sovereign right to withdraw from the treaty.

E. Reservations

1. In the event that the arms trade treaty is not adopted by consensus, each State party should retain the right to formulate reservations thereto.

IX. Transactions and activities

1. With regard to "transport", a distinction should be made between commercial transactions and inter-State arms transfers. It is important to make such a distinction because it will determine the type of controls to be imposed on transporters and the documentation that they must provide.

2. Requiring the licensing of carriers might also provide greater security to arms shipments as it would prevent carriers from being harassed and boarded on the high seas.

3. As stakeholders in the transfer, States should be responsible for transfer authorizations, for approving the transport and point of delivery and for requisite verification of the end-user and final destination of the arms.

X. Additional views

1. The treaty and any subsequent proposals on substantive matters should be adopted by consensus.

2. Editorial amendments should be adopted by a two-thirds majority of the States parties.

Armenia

[Original: English]
[28 March 2012]

Armenia supports the efforts of the international community aimed at elaborating a comprehensive international document that would contribute to tackling problems in the conventional arms trade. Armenia has actively participated in the sessions of the Preparatory Committee for the United Nations Conference on the Arms Trade Treaty.

The key points of the position of Armenia on the arms trade treaty are set out below.

1. Armenia is committed to the principles of international law enshrined in the Charter of the United Nations. The principal position of Armenia is that section II of the most recent draft text of the treaty, on principles, should equally refer to all principles of international law, including the right to self-determination of all peoples, without imposing any preconditions or restrictions on its exercise.

2. Equally, the legitimate right of each State to self-defence should be unconditionally and fully respected, pursuant to Article 51 of the Charter of the United Nations.

3. Armenia would prefer to exclude from the text of the treaty unreasonable restrictions on legal transfer of defence technologies.

4. Given the highly sensitive nature of the treaty, Armenia is of the opinion that all decisions should be taken by consensus.

Armenia has serious doubts about the soundness of section 5 B of the draft text of the treaty, on criteria, which states that a State party shall not authorize a transfer of conventional arms if there is a substantial risk that those conventional arms would seriously impair poverty reduction and socioeconomic development or seriously hamper the sustainable development of the recipient State. The provision does not clarify the exact criteria and the international institution that will define the level of poverty of a given State and the level of negative impact that the import of arms would have on it.

Australia

[Original: English]
[2 April 2012]

1. Australia originally outlined its position on the arms trade treaty in a submission to the Secretary-General dated 18 April 2007.

2. In its resolution 64/48, the General Assembly decided to convene a United Nations Conference on the Arms Trade Treaty to meet for four consecutive weeks in 2012 and to establish a preparatory committee that would meet in 2010 and 2011 to make recommendations to the Conference on the elements required for an effective and legally binding treaty. Australia was a co-author of that resolution.

3. Australia contributed fully to the preparatory process, including at the four Preparatory Committee sessions. We are honoured to have played an active role as a friend of the Chair and as a member of the Bureau. We intervened on several occasions to set out our views, the full texts of which are available on the website of the Permanent Mission of Australia to the United Nations in New York.

4. Australia's commitment to the treaty process is driven by humanitarian, security and trade considerations, in addition to a desire to develop an international instrument that will deter the destabilizing impact on security and development of illicit transfer of arms. We are therefore fully committed to paragraph 5 of resolution 64/48 and its aim of achieving a strong and robust treaty.

5. As noted by the Australian delegation at the conclusion of the final session of the Preparatory Committee, the industriousness and creativity of its Chair

successfully brought us to the critical take-off point for the United Nations Conference on the Arms Trade Treaty in July 2012. The report of the Preparatory Committee provides a solid basis for the Conference. It is vital that the recommendations of the Preparatory Committee be upheld by the Conference and that any further procedural issues that arise are resolved in accordance with the agreed rules of procedure and in the spirit of flexibility demonstrated to date.

6. The Conference will greatly benefit from the background of the rich exchange of ideas in the preparatory process, which were captured in the Chair's non-paper of 14 July 2011. That non-paper provides the best basis to begin substantive negotiations at the Conference.

7. While Australia's views have been placed formally on the record, our position has developed as discussions have progressed. It might therefore be helpful to summarize the key approaches that Australia will take at the Conference.

I. Preamble

II. Principles

III. Goals and objectives

8. These sections of the treaty should embody the fundamental principles on which it is based, and set the context for its obligations. The Chair's non-paper will be extremely useful in this regard. We consider that these provisions should be concise and, wherever possible, based on existing agreed language, including resolution 64/48.

9. More specifically, Australia considers that these sections should:

- Acknowledge the legitimate interests of States, consistent with international law, including the Charter of the United Nations and decisions of the Security Council, with regard to arms for legitimate individual and collective self-defence in accordance with Article 51 of the Charter
- Refer to the prohibition on interference in the internal affairs of States as set out in Article 2, paragraph 7, of the Charter
- Refer to the general prohibition against the use of force in Article 2, paragraph 4, of the Charter (and the limited exceptions to which it is subject)
- Note that the treaty complements existing international and regional agreements and arrangements and the enforcement of United Nations sanctions
- Make reference to the humanitarian context in which the treaty is being negotiated and adopted
- Recall the interest of States in curbing the impact of irresponsible or illicit transfer of conventional arms.

IV. Scope

10. The issue of scope is related to, but distinct from, discussion of specific implementation obligations. The obligations relevant to different types of arms or activities within the scope of the treaty should be differentiated, so as to address concerns that the treaty will contain unnecessary or burdensome obligations.

Australia believes that the proposed definition of categories outlined in the Chair's non-paper is an extremely good basis for moving forward.

11. Australia supports a treaty that is broad in scope. In addition to the inclusion of the expanded seven categories of arms in the Register of Conventional Arms, we strongly support the inclusion of small arms, light weapons, ammunition, parts, components, technology and equipment. There should be no calibre gap. In terms of the scope of the activities proposed for the treaty, Australia supports coverage of export, import, transit/trans-shipment and brokering, in addition to loans and gifts. Any definitions should be clear, concise and, to the extent possible, flexible, so as to accommodate developments in technology without requiring amendment of the treaty.

V. Criteria and parameters

12. The Chair's non-paper provides a good basis for seeking consensus on best practical global standards for international trade in arms. Australia supports clear and concise criteria that can be consistently and transparently applied. States parties should be responsible for applying the criteria to arms transfers.

13. Decisions on whether to authorize a potential arms transfer must be taken on the basis of a rigorous and balanced assessment, taking into account all relevant information. At a minimum, States parties must deny a potential arms transfer where the transfer would contravene existing international legal obligations. The criteria listed in the treaty may not be exhaustive and should be supplemented by States parties where appropriate. We envisage differentiated activity-specific criteria that take into account the specific responsibilities and capabilities of exporting, importing and transit/trans-shipment States.

14. The treaty should allow States parties to make standing assessments of substantially similar transfers. They should have discretion in how they undertake required assessments, but there should be provisions to encourage improved practices through follow-on mechanisms, enhanced capacity-building, sharing of experience and preparation of model legislation and codes.

VI. Implementation

15. The treaty should set out a broad framework of obligations and should not be overly prescriptive. It should require States parties to adopt measures to give effect to its obligations on the movement of arms into, out of and through their territories. Australia envisages the treaty foreshadowing a programme of work to further develop guides for best practice in terms of implementation.

16. Some important elements that should be considered in the treaty include:

- Mechanism to authorize exports
- Importing States to provide appropriate assurances where requested
- Re-exporters to bear the same responsibility as exporters
- Responsibility of good stewardship to ensure that imported arms are used for legitimate purposes
- Trans-shipment/transit States should develop capacity to advance the objectives of the treaty where practicable

- Regulation of brokering and tangible and intangible technology transfers
- Best efforts among States parties to consult through appropriate channels, in accordance with international obligations and domestic law, on implementation of the treaty (but no formal requirement for public denial notification)
- Streamlined reporting requirements with records to be maintained indefinitely or at least for 20 years
- Suspected non-compliance should be handled by the States parties directly involved: the treaty could establish baseline requirements for consultation and mediation among States parties.

VII. International cooperation and assistance

17. The treaty will present implementation challenges for many States parties. Australia supports the inclusion of provisions that would facilitate international cooperation and the provision of assistance and capacity-building where States parties are able, and it is appropriate, to do so. Australian assistance to States parties seeking to implement the treaty will be considered comprehensively once negotiations conclude. Areas where States parties may require assistance include national legislation and mechanisms for arms trade licensing; record-keeping and reporting; education and training; and capacity-building in enforcement.

18. Australia provides assistance to victims of armed conflict. Where possible, Australia will support States parties to develop a national plan that incorporates victim assistance within national health, disability, development and human rights frameworks and mechanisms.

19. Australia supports the establishment of a small support unit to facilitate the implementation of the treaty.

VIII. Final provisions

20. Australia supports practical, effective and cost-efficient final provisions. Entry into force on attaining a simple threshold number of ratifications is the preferred and most practical approach. A reasonable number of States could be 60. We would prefer a strong provision against withdrawal.

21. It would be useful to include a provision to affirm that the treaty will not affect the right of States parties to enter into bilateral or multilateral agreements, provided that these are compatible with their obligations under the treaty. This would facilitate regional and other initiatives that might reinforce and strengthen the objectives of the treaty.

IX. Transactions and activities to be covered by the treaty

22. See paragraphs 11 and 16 above. As noted, the obligations associated with the various transactions and activities will need to be differentiated.

X. Additional views

23. Australia will continue to support developing-country participation in the treaty negotiations and in the follow-up processes to ensure effective implementation. We

envisage the treaty being supplemented through the development of model control lists and refinement of best practice standards.

Austria

[Original: English]
[11 April 2012]

Austria is of the opinion that, while replies to the request by the Secretary-General for views on the elements of an arms trade treaty afford an opportunity to highlight national positions or the positions of groups of States, the non-paper of July 2011 prepared by the Chair of the Preparatory Committee remains the only viable basis for the United Nations Conference on the Arms Trade Treaty in July 2012.

Austria would like to fully associate itself with the paper submitted to the Secretary-General on behalf of the European Union and offers the following additional remarks.

Principles, goals and objectives

In Austria's view, the treaty should be robust and set ambitious standards, in particular through the establishment of legally binding criteria reflecting international human rights law and standards and international humanitarian law. It should be universally applicable to all transboundary transactions. It should establish an efficient implementation mechanism in order to prevent the illicit and irresponsible transfer, production and brokering of conventional arms. It should promote transparency, accountability and efforts to combat corruption. It should stress that disarmament, non-proliferation and arms control are essential for the maintenance of international peace and security and for sustainable development.

Scope

Austria would like to fully associate itself with all the suggestions contained in the Chair's non-paper of July 2011.

Criteria

Decisions on the authorization of transactions will remain the competence of the individual transferring State. Among the criteria to be applied in considering an application should be the following: Security Council-imposed and other legally binding arms embargos; compliance with international humanitarian law and international human rights law; compliance of the recipient State with international norms and standards, in particular with regard to terrorism, organized crime and the non-use of force; effects on regional security and stability; and the risk of diversion.

Belgium

[Original: English]
[5 April 2012]

Belgium is in favour of a strong and robust arms trade treaty, which would be a legally binding international instrument setting the highest common international standards to regulate international transfers of conventional arms.

Belgium reaffirms its full support for the statements made on behalf of the European Union during the Preparatory Committee sessions.

In particular, Belgium reaffirms the statements that it delivered on behalf of the European Union from 12 to 23 July 2011, which included opening and closing statements and statements on elements of the treaty, the principles governing the treaty, the Chair's draft principles of the treaty, the scope of the treaty, the Chair's draft elements of the treaty, the goals and objectives of the treaty, the implementation and application of the treaty, the criteria and standards of the treaty, international cooperation and assistance, and transparency.

Belgium also reaffirms the statements delivered by Hungary on behalf of the European Union from 28 February to 4 March 2011 on the scope of the treaty, the parameters of the treaty and international cooperation and assistance, in addition to general and specific comments on the Chair's draft revised paper.

Belgium further reaffirms the statements delivered by the European Union delegation to the United Nations on behalf of the European Union on general aspects of the implementation mechanism of the treaty, specific aspects of the implementation mechanism, transparency provisions and the implementation support unit of the treaty and the final provisions of the treaty.

Belgium considers that the Chair's non-paper of 14 July 2011 provides a rich synthesis of all the views expressed in the sessions of the Preparatory Committee and serves effectively as a reference document for the United Nations Conference on the Arms Trade Treaty in July 2012.

Belgium aligns itself fully with the paper submitted to the Secretary-General on behalf of the European Union following the invitation, contained in the report of the Preparatory Committee, to submit focused views on the elements of the treaty.

In addition, Belgium reaffirms its statement made on 14 July 2010, in which it proposed to include a reference to the issue of child soldiers in the treaty when considering serious violations of international human rights and humanitarian law.

Bulgaria

[Original: English]
[30 March 2012]

I. Introduction

Bulgaria aligns itself fully with the views submitted by the European Union and wishes to highlight some additional points. Bulgaria, along with the other member States of the European Union, has been fully committed to the negotiation

of a legally binding arms trade treaty setting the highest common international standards for the transfer of conventional weapons.

II. Preamble and principles

Bulgaria considers that the preamble and the principles section of the treaty should include elements that refer to the founding principles of the treaty, taking into account the existing international norms in the area of arms control and non-proliferation and in conformity with the Charter of the United Nations. We support the position that the treaty should include a provision that ensures that States parties may adopt more restrictive measures than those provided in the treaty.

III. Goals and objectives

In our view, the main goal of an arms trade treaty should be to regulate legal international transfers in conventional arms through the establishment of the highest common international standards to be applied at the national level in the assessment of such transfers. It would thus contribute to preventing the diversion of conventional weapons to the illicit market and to promoting transparency and accountability.

IV. Scope

We believe that the treaty's scope should be as comprehensive as possible, defining both the types of items and the activities that should be regulated thereunder.

In terms of items covered, an arms trade treaty should include all conventional arms and munitions, including ammunition, in line with the categories of the United Nations Register of Conventional Arms. It could be further extended to reflect technological improvements in the various categories of arms, if necessary. Alongside large-calibre weapons, it should cover small arms, light weapons, parts, components, technology and equipment. The above items should be clearly defined and laid out in a detailed annex that should be updated regularly.

In terms of activities, the instrument should include export, import, brokering, transit and trans-shipment.

We very much share the view that manufacture under foreign licence as such should not be subject to regulation under this treaty as a separate activity as it could be addressed either by the technology and equipment category or the technology transfer category.

The licensing of production or manufacture is subject to regulation under international trade law and, as such, within the purview of bilateral or multilateral trade agreements and/or contracts.

V. Criteria and parameters

Bulgaria believes that the instrument should include the following elements:

1. A strong set of common criteria, without hindering the right to individual or collective self-defence and without limiting the right of States parties to produce and to procure defence items to meet their legitimate defence needs and to carry out tasks stemming from participation in peacekeeping and support operations.

2. While the future arms trade treaty should introduce commonly agreed standards, the final decision to authorize or deny a transfer should remain a national responsibility.

3. International and regional obligations and commitments of a State party, including sanctions and embargoes, should be treated separately and should lead to a transfer denial.

4. The other criteria should enumerate basic standards to be met when assessing applications, under core chapters, without prejudice to further structural formations and elements:

Internal, regional and international security and stability;

International humanitarian law and international human rights law, including human security and development;

Arms control and non-proliferation.

We consider that it is necessary to take a case-by-case approach when assessing an application, with specific controls for specific transfers. Arms exports controlled under an arms trade treaty have to be assessed against the full set of common criteria. In cases in which an arms export does not comply with the relevant legally binding obligations mentioned in the parameters, States parties must deny such exports. For transit and trans-shipment transactions and brokering activities, parameters related to legally binding international obligations should apply. For imports, the use of criteria and their precise nature should be determined at the national level.

VI. Implementation

The implementation of the treaty's provisions must be a national responsibility. To this end, States parties must elaborate and have in place the necessary export control legislation, which includes legal provisions for administrative capacity-building and the establishment of licensing, enforcement and prosecution authorities, in addition to penal and administrative sanctions in cases of infringement of national legislation and the treaty's provisions, respectively.

A mandatory transparency mechanism should be established for national implementation and application of the treaty. It would be closely linked to implementation requirements and vital for achieving the treaty's objectives. The treaty should include provisions encouraging States parties to exchange, upon request and as appropriate, information aimed at facilitating the assessment of arms transfer applications under the treaty. The provisions to enhance transparency must be pragmatic and should strike a clear balance between sharing information and national security concerns.

To address some of these concerns while endeavouring to achieve a strong and robust treaty, it may prove useful to clearly distinguish between controlled items and activities and reporting requirements. More precisely, the scope has to be as comprehensive as possible, but the reporting format should include authorized exports to the level of detail agreed in the treaty.

We suggest the establishment of a small secretariat (implementation support unit) as the appropriate body for collating national reports and keeping records, in

addition to serving as a clearing house for States parties requesting and providing assistance.

VII. International cooperation and assistance

Bulgaria is of the opinion that an arms trade treaty should include voluntary provisions on international cooperation and assistance and should exclude financial assistance and industrial cooperation since these issues are irrelevant to the goals and objectives of the treaty.

VIII. Final provisions

We consider appropriate the establishment of a review mechanism. Conferences to review the status, implementation and scope of the treaty should be conducted at mutually agreed intervals. During intersessional periods, States parties could meet annually or biannually to enhance implementation, promote the universality of the treaty and request or provide assistance. The final provisions should also define the number of ratifications necessary for the treaty to enter into force.

IX. Transactions and activities to be covered by the treaty

Bulgaria considers that an arms trade treaty should require control of transfers (export, import, brokering, transit and trans-shipment) of the items within its purview. At the same time, different control provisions for different types of transfers should be envisaged.

X. Additional views

It is our understanding that, in line with the principle of non-retroactivity of law, the provisions of the treaty will be applicable only to activities undertaken by States parties after the treaty enters into force for them. The phrasing of all provisions should therefore not leave any room for interpretation to the contrary.

Canada

[Original: English]
[3 April 2012]

Canada believes that the primary goals of an arms trade treaty should be:

- To prevent transfers of conventional arms that breach Security Council sanctions regimes
- To prevent arms transfers that contribute to serious violations of human rights
- To prevent arms transfers that contribute to serious violations of international humanitarian law
- To prevent transfers of conventional arms that provoke, prolong or aggravate armed conflict
- To prevent transfers of conventional arms that support or facilitate terrorist acts

- To prevent transfers of conventional arms that would be used in the commission of transnational organized crime
- To prevent the diversion of conventional weapons to unauthorized end users
- To promote transparency and due diligence in transfers of conventional arms.

These should be the core criteria of any future arms trade treaty. While other criteria may be considered, it is these that should form the foundation of an effective treaty.

Recognizing legitimate trade and ownership

The goal of the treaty should be to curtail illicit and irresponsible transfers of conventional arms, and their diversion from legal trade into the illicit market. The treaty should not impede the legitimate trade in conventional arms, nor should it discourage or undermine the use of firearms for recreational activities or other forms of lawful and responsible ownership and use as recognized by States parties. Canada is particularly concerned that the treaty not place new burdens on lawful firearm owners.

Canada therefore believes that the goal of the treaty should be clearly stated in its preamble and requests the inclusion of the following two (or similar) preambular paragraphs:

> "*Recognizing* that the purpose of the Arms Trade Treaty is to prevent, combat and eradicate the illicit and irresponsible transfer of conventional arms and their diversion into the illicit market, including for use in transnational organized crime and terrorism,
>
> "*Noting* that the Arms Trade Treaty acknowledges and respects responsible and accountable trans-national use of firearms for recreational purposes, such as sport shooting, hunting and other forms of similar lawful activities, whose legitimacy is recognized by the States Parties".

National discretion

The principal aim of an arms trade treaty should be to establish global standards for national export and import control regimes organized on the basis of unique national political and administrative cultures and domestic administrative capabilities. Such national discretion is a well-established principle within many export control regimes. Explicit recognition of the rights of States parties to use national discretion will clarify the role of a potential future treaty to set common standards for the international transfer of conventional arms while acknowledging that different States parties may choose different methods of meeting or exceeding these standards. Canada believes that this principle should be recognized explicitly within an arms trade treaty.

It is Canada's view that the fundamental purpose of a future arms trade treaty is to define what specific items are controlled and what specific criteria are to be considered in analysing proposed transfers of these items. Provided that these parameters and the overall goals of a future treaty are respected, States parties should retain their individual national discretion to decide how to implement the responsibilities that the treaty places upon them.

One way in which national discretion is currently used within many export control regimes is through the recognition that it is not always necessary, nor even prudent from a risk management perspective, to require individual case-by-case analysis of proposed transfers in all circumstances. An alternative approach practised in many existing transfer control regimes recognizes that it is sometimes appropriate to use general, global or open licence permits to facilitate what are predetermined to be lower-risk transfers. Using such an approach, a State party might decide, for example, that a general permit or licence be granted for the export of a certain item to a certain destination or destinations for specific end uses by specific end users. Such permits could be crafted so that they do not violate the parameters established by a future arms trade treaty. A risk assessment would be made at the outset.

In Canada's view, an arms trade treaty should recognize that, in addition to these fundamental, basic considerations required by the treaty, each State party retains its sovereign right to include additional considerations.

Scope and criteria

Further to the Chair's non-paper of 14 July 2011 and in keeping with the principle of national discretion, Canada would support the inclusion of the following items within the scope of an arms trade treaty: tanks, military vehicles, artillery systems, military aircraft, military helicopters, naval vessels, missiles and missile systems, small arms, light weapons and ammunition (including a sub-item for bombs, torpedoes, rockets and other explosive devices and charges).

Canada supports the inclusion of parts, components, technology and equipment as items controlled under an arms trade treaty if they are clearly defined through a control list.

Canada supports the inclusion of exports within the scope of activities to be covered by an arms trade treaty. With regard to imports, Canada notes that import controls are normally based on largely domestic considerations. Canada therefore would not support the inclusion in an arms trade treaty of an import control list that mirrors the export control list, nor the application to imports of assessment criteria.

Concerning brokering, Canada believes that controls on brokering in an arms trade treaty should be limited to a requirement that States parties introduce legislation to criminalize the brokering of illicit transactions. Canada would support the inclusion of technology transfer within the scope of activities if agreement can be reached on a clear definition of "technology". Canada cannot support the inclusion of transport, re-export and manufacture under foreign licence within the scope of an arms trade treaty. Canada believes that the concept of manufacture under foreign licence would be captured within controls on technology and manufacturing equipment.

Canada believes that transparency will be an important feature of a future arms trade treaty. States parties to the treaty should be encouraged to be as open as practically possible with information concerning the transfers in which they engage. It is important, however, that the transparency standards to be set out in an arms trade treaty be practical and realistic. For example, detailed reporting on each individual case of a transfer of weaponry may not always be practical or possible. High-volume exporters, for example, should have the option of providing aggregated information on frequent transfers with specific countries, such as high-volume

transfers between Canada and the United States of America. Transparency provisions and reporting requirements should be drafted with due consideration for such concerns as the need to protect national security, personal privacy (in the case of transfers to individuals) and corporate confidentiality. Canada does not support mandatory reporting on ammunition, parts, components, technology and equipment transfers.

Military and police activities

Canada believes that an arms trade treaty should not hamper the ability of military and police forces to move arms across borders for the purpose of activities conducted in accordance with international law.

Non-State actors

Many States participating in the arms trade treaty process have called for a ban on transfers to non-State actors. While it is clear that those advocating this wording are referring to illegal armed groups such as terrorist organizations and transnational criminal groups, this wording could also be interpreted to mean legitimate and responsible private companies and individuals. Accordingly, to clarify the intent of this position, Canada would prefer the term "illegal armed groups" to "non-State actors" as it better captures the intended meaning and provides clarity regarding which actors in particular the arms trade treaty seeks to prevent obtaining access to arms.

Implementation support unit

Should it be determined that an implementation support unit will be necessary to assist in the implementation of States parties' legal obligations under a future arms trade treaty, Canada believes that such a unit should be small, flexible and minimal. It should be established within existing United Nations institutions and financed through existing United Nations budgets. It should operate in full respect of States parties' sovereign rights under the treaty and should play no role in acting as an independent verification body or one that evaluates decisions taken by States parties with regard to denying any particular arms transfer.

Chile

[Original: Spanish]
[29 March 2012]

The Government of Chile realizes that freedom from threats to the rights and safety of individuals requires the promotion of concrete actions at the multilateral level in order to guarantee those rights and that safety and to protect civilians.

In that context, the Government of Chile has reiterated its firm commitment to the negotiation and entry into force of an arms trade treaty throughout the preparatory process for the international Conference. Because uncontrolled arms trafficking constitutes a major new transnational threat, regulating it should be the responsibility and should fall within the mandate not of a few States, but of the international community.

We consider that agreement on such a sensitive and important issue should be achieved through a legally binding instrument that sets high standards for the

regulation of arms trade transactions while preventing the diversion of arms to the black market.

A strong, efficient arms trade treaty must incorporate all categories of arms, including those listed in the United Nations Registry, small arms and light weapons, ammunition, components, spare parts, technology and related materiel. In addition, in order to keep the treaty updated, it must be possible to incorporate into it new arms and new technologies.

Concerning the transactions to be covered by the agreement, we believe that the draft should include administrative acts related to the arms trade, such as, inter alia, import, export, trans-shipment and temporary import and export.

Chile is also of the view that this endeavour of the international community should include transparency mechanisms in the form of States' submission of periodic reports. These documents should be brief, simple and consistent with the State's domestic law and with existing regional and international mechanisms. Chile also believes that the treaty should include a transfer registration system with data on file for at least 20 years.

Furthermore, the submission of reports by States and the systematization of information require the establishment of a support unit as a tool to facilitate information exchange and provide guidance on the possible provision of technical assistance. The mandate of this institution created under the treaty should be to support the processes that each State requires at the domestic level in order to adopt legislation and procedures to prevent the diversion of arms to the black market and set fines and other penalties for violators.

An effective arms trade treaty must also provide for strengthened international cooperation and for the provision of related technical assistance. The exchange of good practices for combating illicit arms trafficking and support for legislative drafting and institution-building will allow the agreement to be viewed not merely as a register of commercial transactions, but as a tool for promoting and supporting public policymaking.

It is our understanding that the primary subject of this treaty is the arms trade and the regulation thereof. However, the use of arms and their diversion to the black market give rise to a number of problems and situations that have a serious impact on the development of individuals and of whole communities. We therefore firmly believe that the treaty should also include human rights and international humanitarian law among its basic principles.

In light of the complexity of the issues discussed herein and of the wide range of political and economic issues requiring confidence-building measures and transparency in arms transactions, we attach great importance to the contribution of civil society to the debate. Many organizations of civil society have valuable experience on the ground and in other forums for debate that can be used during the negotiations if this type of stakeholder is given a greater voice in the Conference.

Chile recognizes that the arms trade treaty negotiation process has been difficult owing to the interests at stake and to the complexity of the issue. However, we consider that an agreement that is designed to function as a transparent mechanism and that embodies high international standards . can provide a

transparency tool that will help to prevent the illicit arms trade and other problems that hinder the economic and social development of peoples.

Chile's technical and political institutions view this process as a unique opportunity to make substantive progress with a direct impact on the development of national policies for controlling arms and arms transfers and combating scourges such as organized crime, the training of terrorist groups and the proliferation of armed conflicts as a result of the diversion of arms to the illicit market.

Costa Rica

[Original: English]
[30 March 2012]

Costa Rica supports the Chair's non-paper of 14 July 2011. It is a fair reflection of the general discussions in the arms trade treaty process to date and provides a strong basis for the United Nations Conference on the Arms Trade Treaty in July 2012. There are, however, some areas of it that Costa Rica believes could benefit from clarification and the addition of further elements, as described below.

Costa Rica believes that a comprehensive, robust, legally binding and verifiable arms trade treaty is essential to exert effective control over the underregulated trade in conventional weapons and to prevent the diversion of those weapons to the illicit market.

Costa Rica emphasizes the particular vulnerability of developing countries and recognizes the strong stake that those countries have in a universal treaty that holds all States parties responsible for reducing the cost of armed violence in human lives and economic and social rights.

I. Preamble

Costa Rica supports the preamble as set out in the Chair's non-paper, in particular its strong humanitarian focus. We emphasize the clear link between the absence of commonly agreed international standards for the transfer of conventional arms and a range of threats to human security and development.

II. Principles

Costa Rica supports the principles as set out in the Chair's non-paper, in particular the references to the Charter of the United Nations; the political independence, sovereign equality and territorial integrity of all States; the right to self-determination; the general prohibition against the use or threat of use of force; and States' rights and obligations under international law, including international human rights law and international humanitarian law.

III. Goals and objectives

Costa Rica supports the goals and objectives described in the Chair's non-paper and notes with particular satisfaction the goals of preventing arms transfers that would gravely undermine social and economic development, and of promoting transparency and accountability.

V. Implementation

Implementation of the treaty must be, first and foremost, a national affair since decisions on transfers fall within the competence of States. Pursuant to the treaty, they must establish national control mechanisms for such transfers, including by adopting legislation and regulations, designating the competent national authorities and developing administrative and judicial procedures.

These control mechanisms should be based primarily on the principle of prior authorization of arms transfers and on evaluation of transfer requests in light of the common standards imposed by the treaty.

States parties should retain the ability to adopt more restrictive systems.

The treaty should also include provisions that require States parties to criminalize failure to comply with the national regulations governing arms transfers and violation of the specific provisions of criminal law that are applicable to violations of States' international obligations, including those arising from sanctions decisions taken by the United Nations Security Council. It should criminalize the pursuit of activities that are deemed to be illicit, such as the corruption of foreign public officials in the context of international commercial transactions.

The treaty should also foster transparency in arms transfers and, specifically, should provide for the regular issuance of national reports on States' compliance with their obligations under the treaty. States might also be asked to publish aggregate data on arms transfers with information on their current activities and on technical problems encountered.

VI. International cooperation and assistance

Provisions on international cooperation and assistance are essential to the functioning of the future treaty since it is important for all States to be able to establish effective national mechanisms for controlling international transfers of conventional arms, as well as the administrative and criminal law provisions needed in order to better combat illegal trade. In that connection, we consider that judicial cooperation and, more specifically, mutual assistance in matters of international criminal law are important for implementation of the treaty.

VII. Final provisions

The objective of the negotiation must be to achieve a universal treaty. It is essential that the major arms trade stakeholders should be parties to it.

VIII. Transactions or activities to be covered by the treaty

The activities to be covered by the treaty must include all transfers (export, import, transit and trans-shipment) and brokering, subject to a clear definition of "brokering", which should be understood to mean the activities of individuals who purchase, sell or transfer materials in their possession, as mentioned above under "scope of application", or who negotiate or arrange transactions that may include the transfer of such materials.

IX. Other issues

None.

IV. Scope

Costa Rica supports the comprehensive approach set out in the Chair's non-paper with regard to scope.

Costa Rica agrees that the treaty's scope should include all tanks, military vehicles, artillery systems, military aircraft and helicopters (manned or unmanned), surface and submarine naval vessels armed or equipped for military use, missiles and missile systems (guided or unguided), small arms, light weapons, ammunition for use with any of the above, parts or components specially and exclusively designed for any of the above, and technology and equipment specially and exclusively designed and used to develop, manufacture or maintain any of the above.

Furthermore, Costa Rica considers it essential for the treaty to cover munitions and internal security arms and equipment, both lethal and less than lethal, and their ammunition, parts and components.

Regarding the types of transactions and activities to be covered, Costa Rica agrees that the treaty's scope should include import, export, transfer, brokering, manufacture under foreign licence and technology transfer.

Further explanation of Costa Rica's understanding of these terms is given below as Costa Rica believes that the use of these terms throughout the Chair's non-paper requires clarification.

V. Criteria and parameters

Costa Rica supports the comprehensive nature of the Chair's non-paper on the criteria of an arms trade treaty reflecting States parties' existing obligations under international law. In particular, we support the principle that States parties have a duty to refuse transfers where there is a substantial risk that they would:

- Violate Security Council decisions and other commitments relating to international arms transfer control;
- Undermine peace, security and stability;
- Be used to facilitate serious violations of international humanitarian law, international human rights law or international criminal law, including genocide, crimes against humanity and war crimes;
- Undermine poverty reduction and socioeconomic development;
- Be diverted to unauthorized end users;
- Be used in the commission of crime or to support terrorist acts;
- Involve corrupt practices that would undermine the effective application of the treaty criteria.

Costa Rica suggests that the treaty specify that these criteria be consistently applied to all proposed transfers falling within its scope.

Germany

[Original: English]
[30 March 2012]

Introduction

1. Germany firmly supports the objective of establishing a legally binding global instrument setting the highest common international standards for the transfer of conventional arms. Germany believes that regulating the to-date largely unregulated and uncontrolled spread of conventional arms and ammunition is a pressing task. Agreeing on and implementing standards for the transfer of conventional arms and ammunition would also contribute to combating effectively the illegal transfer of arms and ammunition. National experience suggests that an instrument governing the international trade in conventional arms needs to be robust, well balanced and implementable.

Germany welcomes the impressively strong and growing support among Member States in all regions for such an instrument. We acknowledge the importance that civil society plays in moving the treaty forward.

2. It is Germany's view that the Chair's non-paper of 14 July 2011 provides a rich synthesis of all the views expressed during the sessions of the Preparatory Committee and serves effectively as a reference document for the United Nations Conference on the Arms Trade Treaty.

The present contribution is intended to complement the views expressed in various official statements at the sessions of the Preparatory Committee and in Germany's formal replies to the Secretary-General in March 2007 and June 2011 pursuant to General Assembly resolutions 61/89 and 64/48, respectively.

Preamble and principles

3. Germany considers that the preamble and the principles section of the treaty should refer to the context and the history of the treaty process and to the founding principles of the treaty. Due attention should be paid to the accuracy and non-selectivity of any references to principles and purposes of the Charter of the United Nations.

Goals and objectives

4. The main goal of an arms trade treaty should be to regulate legal international transfers in conventional arms through the establishment of the highest common international standards for transfers of conventional arms to be applied at the national level in the assessment of such transfers. By regulating the legal trade in conventional arms, an arms trade treaty should also contribute to preventing the illicit and irresponsible trade in conventional arms and the diversion of transferred weapons to unintended and unauthorized users. The standards established in an arms trade treaty should prevent transfers that contribute to or facilitate serious violations of international human rights law and international humanitarian law. An arms trade treaty will contribute, among other things, to reinforcing peace and security, regional stability and sustainable social and economic development, and will

VI. Implementation

National authority and systems

Costa Rica supports the comprehensive approach to implementation outlined in the Chair's non-paper. In particular, we support the requirements that States parties:

- Adopt legislative and administrative measures to implement the treaty;
- Designate competent national authorities for arms transfer authorization and ensure adequate national coordination;
- Have a national control list of items under the scope of the treaty;
- Provide all necessary documentation to other States in the arms transfer chain;
- Adopt strong and effective mechanisms to prevent corruption in arm nsfers and prosecute those responsible.

Costa Rica believes that States parties should be required to take all necessary measures to control not only exports but also all transfers included in the scope of the treaty.

Record-keeping, reporting and transparency

Costa Rica supports the inclusion of record-keeping, reporting and transparency provisions in the treaty, including that States parties should provide detailed national reports on all international conventional arms transfers and activities undertaken to implement the treaty.

Costa Rica believes that all the optional record-keeping and reporting provisions described in the Chair's non-paper should be mandatory, that all reports provided by States parties should be placed in the public domain and that records should be kept for a minimum of 20 years.

Enforcement

Costa Rica supports the provisions set out in the Chair's non-paper with regard to enforcement, in particular the need for States parties to establish legislative, law enforcement and judicial mechanisms, together with penalties for violations of relevant national laws.

Implementation support unit

Costa Rica supports the Chair's non-paper regarding the establishment of an implementation support unit. This unit should perform whatever tasks are deemed necessary to support the implementation of the treaty, including serving as a repository for national reports, assisting the Assembly of States Parties in carrying out its functions, acting as a clearing house for offers of and requests for assistance and promoting the universality of the treaty.

VII. International cooperation and assistance

Costa Rica supports the provisions set out in the Chair's non-paper with regard to international cooperation, including information exchange and cooperation in terms of law enforcement and mutual legal assistance.

Costa Rica supports the provisions set out in the Chair's non-paper relating to international assistance to strengthen national capacity to implement the treaty, including with regard to the offer and receipt of technical, legal, material and financial assistance. We also consider that the treaty should include references to encouraging information exchange on best practices.

VIII. Final provisions

Costa Rica supports the final provisions of the treaty set out in the Chair's non-paper, including the establishment of an assembly of States parties and a five-yearly review conference.

Costa Rica believes that the treaty's entry into force should not favour any country or group of countries, but should depend upon ratification by 30 States parties, the minimum number required to ensure a functioning regime.

Costa Rica believes that no reservations that are incompatible with the object, purpose and effective application of the treaty should be permitted, and that clear and effective dispute settlement provisions are required, including potential recourse to an independent third party should disputes prove intractable.

IX. Transactions and activities to be covered by the treaty

Costa Rica supports the annex to the Chair's non-paper, in which the term "transfer" is defined as including import, export, re-export, temporary transfer, trans-shipment, transit, transport, leases, loans and gifts of conventional arms, and also includes the transfer of title or control over the equipment and the physical movement of the equipment into or from a national territory. The annex also refers to brokering, manufacture under foreign licence and technology transfer.

Costa Rica recommends that the treaty include aid and barter arrangements for its effective implementation. It should address technical assistance or training provided in connection with, or maintenance and upgrades of, items falling within its scope. It should also refer to ancillary services such as financing or insuring international transfers.

Costa Rica recommends that the treaty apply to all international transfers, regardless of the identities of the parties to the transfer, including States parties or agents thereof, commercial operations, organized non-State groups or individuals.

Costa Rica believes that some of the terms used in the Chair's non-paper to describe the types of transaction or activities covered by the treaty are ambiguous. For example, in section IV, "transfer" appears to be distinct from import and export, whereas in the annex it appears to include those terms. All such ambiguities require clarification so as to ensure that the treaty's scope is as comprehensive as possible.

X. Conclusion

Costa Rica reiterates its commitment to participating constructively in the Conference on the basis of consensus (as it has already been defined) and governed by the principles of good faith and transparency. In that spirit, Costa Rica understands that consensus does not mean veto power, and that it is not an end in itself but a valuable instrument to assist States in the realization of a strong and

universal arms trade treaty that strengthens international law and delivers significant humanitarian benefits.

Cuba

[Original: Spanish]
[29 March 2012]

I. Preamble

Deeply concerned about illicit trafficking and the diversion of conventional arms to illicit markets in many regions of the world,

Recognizing the legitimate political, economic, legal and security interests of States in respect of the import, export and transfer of conventional arms and related articles,

Aware of the need to prevent, combat and eradicate illicit trafficking in conventional arms,

Recognizes that States have the primary responsibility for regulating and controlling the import, export and transfer of conventional arms,

Recognizes the sovereign right of States to decide how to regulate internal arms transfers and the need to establish and maintain controls over the private ownership of conventional arms.

II. Principles

The inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter should be reaffirmed;

The sovereign right of States to acquire, manufacture, import, export, transfer and retain conventional arms for self-defence and security needs should be reaffirmed;

International law and the purposes and principles enshrined in the Charter of the United Nations, including the sovereign equality of States, territorial integrity and political independence, the peaceful settlement of international disputes, non-intervention in the internal affairs of States and non-recourse to the use or threat of use of force, should be respected;

The right of self-determination of all peoples, taking into account the particular situation of peoples under colonial or other forms of alien domination or foreign occupation, and recognizing the right of peoples to take legitimate action in accordance with the Charter of the United Nations to realize their inalienable right of self-determination, should be reaffirmed. This shall not be construed as authorizing or encouraging any action that would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples;

The right of States to regulate internal transfers of arms and national ownership within their territory without prejudice to the priority accorded to nuclear

disarmament, as agreed by consensus at the First Special Session of the General Assembly devoted to Disarmament 1978, should be recognized;

It should be acknowledged that the treaty should complement, not replace, national control systems for conventional arms transfers;

International cooperation and assistance in preventing, combating and eradicating illicit trafficking in conventional arms should be promoted.

III. Goals and objectives

Establish general standards that allow all States to conduct conventional arms imports, exports and transfers in an orderly manner without affecting their national security interests;

Ensure full respect for the Charter of the United Nations, including the provisions of Article 51 thereof on the right of self-defence;

Prevent, combat and eradicate illicit trafficking in and brokering and transfer of conventional arms;

Promote international cooperation and assistance in preventing, combating and eradicating illicit trafficking in conventional arms;

Prohibit the transfer of conventional arms to non-State actors;

Ensure that the objective of the treaty is not to limit legitimate trade in conventional arms, but to help eradicate illicit trafficking. It cannot be selective or discriminatory;

Supplement, not replace, national systems for monitoring conventional arms transfers.

IV. Scope

The scope of the treaty must cover all conventional arms, especially the most modern and sophisticated, whose destructive power is steadily growing.

As there is no consensus regarding the inclusion of ammunition and explosives in the scope of application of the treaty, they must not be covered by it. Their inclusion would create a significant burden, posing practical obstacles to the treaty's implementation that might render it a non-viable and ineffective instrument.

The treaty must not cover parts or components, technology, arms setups, arms systems or dual-use items in order not to hinder the civilian uses of these technologies for peaceful and legitimate purposes.

Transfers of conventional arms within a State will not be regulated by the treaty.

On the transactions and activities to be covered by the treaty, see section IX below.

V. Criteria and parameters

All provisions of the treaty, including those concerning criteria and parameters, must fully respect the principles and purposes of the Charter of the United Nations.

The treaty must not be selective or discriminatory and must not be based on subjective control criteria or parameters, which can be manipulated by some States in order to promote political and security agendas that target other States. Neither should it affect the right of self-defence enshrined in Article 51 of the Charter of the United Nations, including the right of States to acquire the arms that they need in order to ensure their national security.

The criteria must meet the minimum requirements of objectivity, transparency, clarity and predictability and must not be subject to manipulation.

The treaty must contain clearly defined criteria and parameters set out in a manner that prevents States from inflicting reprisals on other States that do not agree with their policies or positions.

The potential criteria concerning violations of international humanitarian law, international human rights law, the risk of corruption and matters relating to sustainable development must not be included in the treaty since it is well known that they are easily manipulated, and because they have different legal frameworks.

States parties shall not authorize the transfer of conventional arms from, to or through any of the territories under their jurisdiction if the transfer is to a non-State actor.

VI. Implementation

The provisions of this treaty shall be implemented in a manner that does not violate States parties' inherent right of self-defence.

The treaty should complement, not replace, national control systems for conventional arms transfers.

National control systems should provide for effective control of the possession of arms by civilians, export and import licences or permits and arms transfers.

States parties shall not authorize the transfer of conventional arms from, to or through any of the territories under their jurisdiction if the transfer is to a non-State actor.

In implementing this treaty, States parties should follow the Guidelines for international arms transfers adopted by the United Nations Disarmament Commission.

- Maintenance of registers, information and transparency

The treaty should not establish information mechanisms that could pose a threat to the national security of States.

Mechanisms for the submission of reports on implementation of the treaty should be voluntary and should take the national security interests of States into account.

The States involved in a transaction should be the legitimate sources of information.

- Implementation support unit

This matter warrants further discussion.

Once established, the unit should perform the basic roles of a secretariat with a minimal infrastructure and should not take on reporting, inspection, review, assessment or representative duties.

The unit must not place a financial burden on States.

VII. International cooperation and assistance

International cooperation and assistance are crucial to full implementation of the treaty.

States and international and regional organizations that are able to provide international cooperation and assistance, including technical and financial assistance, should do so without conditions at the request of interested States.

Assistance and cooperation should focus on capacity-building, staff training, exchange of experiences in implementing the treaty, mutual legal assistance, technology transfer and customs cooperation.

States should provide assistance with the implementation of programmes aimed at raising public awareness of the problems and consequences arising from illicit trafficking in conventional arms.

The treaty should be implemented in a manner that does not hinder the economic and technological development of States parties. It should not be used as a pretext for taking unilateral measures that are contrary to international law and to the Charter of the United Nations.

VIII. Final provisions

The right to make amendments and reservations to the treaty and to denounce it must be guaranteed.

- Entry into force of the treaty

In order for the treaty to be effective, the primary manufacturers and exporters of conventional arms must be States parties to it.

The treaty must not enter into force until it has been ratified by at least 60 States, including the primary manufacturers and exporters of conventional arms.

IX. Transactions or activities to be covered by the treaty

The treaty should clearly state that the transactions or activities covered are the export, import and transfer of conventional arms.

The treaty must not include technology transfer or dual-use equipment among the activities to be monitored as this would hinder their many civil uses, and therefore the progress of developing countries.

Denmark

[Original: English]
[30 March 2012]

In accordance with the report of the Preparatory Committee for the United Nations Conference on the Arms Trade Treaty, Denmark is pleased to provide its national views on the elements of the treaty.

Denmark is fully aligned with the views put forward by the European Union throughout the treaty process and with the reply by the European Union in accordance with the report of the Preparatory Committee.

Denmark believes that the Chair's non-paper of 14 July 2011 reflects well and in a nuanced manner the views of Member States and the deliberations at the sessions of the Preparatory Committee. It thus provides a solid basis to guide further negotiations at the Conference in July.

We strongly support the treaty process and look forward to the Conference in July with a view to reaching agreement on a comprehensive and robust treaty regulating international transfers of conventional arms that will include all conventional arms and strong criteria for export licensing with a solid human rights and international humanitarian law dimension.

Goal and objectives

In Denmark's view, the overall objective of the arms trade treaty is to create a comprehensive international binding instrument providing a regulatory framework with the highest common international standards for international transfer of conventional arms. Furthermore, as many armed conflicts are aggravated and prolonged owing to destabilizing accumulations and illicit transfers of arms, a key objective should be to prevent illicit or irresponsible arms trading, which causes insecurity, poverty and human suffering, including through violations of international humanitarian law and human rights. To this end, a central goal of the treaty should be to ensure that international transfers of arms do not affect international, regional or national peace, security and stability.

Scope

The treaty should cover the broadest possible range of conventional arms. As to the type of items, it should contain references to generic descriptions of weapons (products manufactured or modified for military use). More detailed descriptions could be included in an annex to the treaty.

For example, bombs, mines, grenades and military explosives should be included in the scope of the treaty by a generic reference to munitions, which includes ammunition.

Denmark is neither a large producer nor a large exporter of arms. Danish exports consist for the most part of components of arms to be assembled and finalized in other countries. It is therefore crucial for us that the treaty cover the broadest possible range of conventional arms, including parts and components and technology for products manufactured or modified for military use.

We also strongly support the inclusion of small arms and light weapons in the scope of the treaty as this is essential in achieving its humanitarian goals.

Firearms for hunting and sport shooting should be covered by the treaty, but there may be good reasons for distinguishing between the transfers of, for example, thousands of hunting rifles for an arms dealer in a foreign country and the temporary export of a rifle for personal use during a holiday trip. This should be reflected in the provisions of the treaty. As an example, the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, stipulates in its provisions on general requirements for export, import and transit licensing or authorization systems that States parties may adopt simplified procedures for temporary import and export for verifiable lawful purposes such as hunting and sport shooting.

The scope of the treaty should include export, re-export, transit, trans-shipment, brokering and import. There may, however, be a need to consider different provisions for different types of activities that may be included in the treaty. For example, it is unlikely that the parameters and criteria agreed for issuing licences for exports would be useful or even relevant for issuing licences for imports. This illustrates the need to consider carefully which provisions should apply to which activities.

Criteria and parameters

A key objective of the treaty is to ensure that international transfers of arms are subject to national risk assessment before authorizing a transfer of conventional arms. The assessment should be based on robust and ambitious criteria, including strong human rights and international humanitarian law dimensions. In this regard, licences for arms transfers must be denied if there is a risk that the transfer will contribute to, or be used for, violations of international humanitarian and human rights law or exacerbate conflict or armed violence in the recipient country. Furthermore, a licence application must be denied if the transfer does not comply fully with the legal obligations of a State party, including relevant decisions of the Security Council.

In addition, the following criteria should be included in States parties' assessment of licence applications: risk of illegal transfers of arms and terrorist acquisition of arms, possible diversion of arms or their unauthorized re-export, the recipient State's respect for its international obligations and commitments, possible impact on the stability of the recipient country (including its sustainable development) and regional stability.

Implementation

The treaty should establish an obligation for each State party to develop a system that will ensure that it can control all transfers of items covered by the treaty. It should thus be required that States parties adopt the necessary legislative and administrative measures to implement the treaty.

An essential element in this respect is the creation of a transparent and effective national authorization system. The treaty should thus contain obligations to establish a national licensing framework to ensure that all international transfers of

arms are subject to a careful risk assessment and licensed by the relevant Government authorities. Export, transit, trans-shipment and brokering should be subject to a licensing system. Prior authorization issued by the relevant national authorities of the exporting State must be required. All applications concerning these activities should be assessed against the criteria.

With regard to imports, States parties should be required to establish appropriate measures to be able to control imports and prevent diversion of imported weapons, especially when it comes to dangerous weapons such as firearms and munitions.

Transparency and record-keeping

Transparency and reporting are essential features for monitoring national-level implementation of the treaty and ensuring that States parties comply with their obligations. In this regard, transparency and accountability should be the guiding principles in relation to reporting, implementation and information exchange. This should apply to States parties' implementation and application of the treaty. The treaty should thus contain a provision requiring States parties to regularly report on export authorizations, including details on destination, quantity, type and value.

Provisions entailing a requirement regarding record-keeping should be linked to the licensing system. The treaty should contain a clear obligation to keep records of authorizations issued by the national authorities.

International cooperation

To promote universalization and full implementation of the treaty, provisions for international cooperation and assistance to help States parties to implement it should be included.

Ecuador

[Original: Spanish]
[4 April 2012]

Scope

Ecuador believes that in order to ensure its effectiveness, the treaty must include the seven categories contained in the United Nations Register of Conventional Arms, small arms and light weapons, all calibres of ammunition, spare parts and components. Ecuador also believes, in line with the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials and with its 2007 reply (A/62/278 (Part II)), that the inclusion of explosives and of mines not banned by international humanitarian law should be considered.

Ecuador believes that the activities covered should include sales, purchases, transfers and brokering.

Criteria

In order to be effective, the treaty must be legally binding.

The treaty must provide for mechanisms or procedures, including international cooperation, for preventing or combating and eradicating the illicit arms trade.

Sales bans should be envisaged for countries that have violated the prohibition of the threat or use of force against the territorial integrity or political independence of any other State, established in Article 2 of the Charter of the United Nations.

The treaty must reiterate the right of States to freely determine their defence and security needs.

The criteria that States must consider in deciding whether a transfer should be authorized must be objective, transparent, consistent, predictable and non-discriminatory. The arms trade treaty must not become a means of political coercion as a result of subjective, inconsistent implementation by the exporting States. Therefore, it must not establish criteria based on subjective judgements, such as systemic corruption, poverty reduction, level of social development or human rights violations, except in cases of crimes against humanity, genocide or war crimes defined as such by the United Nations.

Among its principles, the treaty must include the shared responsibility of exporting, importing and transit countries.

Reference must be made to the obligation and responsibility of States to maintain strict and continuous surveillance of border areas so that they can monitor arms trade, trafficking and transfer effectively. In order to meet this criteria, mechanisms for information exchange and coordination among border States must be put in place with a view to efficient monitoring of border areas.

International cooperation

Ecuador attaches particular importance to the international cooperation that is essential to satisfactory implementation of the arms trade treaty.

Such cooperation must help States establish a mechanism to facilitate the exchange of information and experiences in order to meet the objectives of the treaty, namely: to eliminate illicit trafficking, prevent illegal sales by traders, avoid intentional diversion to other buyers, prevent and punish the forging of documents for the purchase and subsequent registration of firearms, maintain an adequate registry of seized or confiscated arms, verify import and export transactions, obtain basic information on the routes and networks used by criminal organizations involved in trafficking and promote and facilitate international cooperation and assistance in tracing arms.

Implementation

The treaty must establish minimum standards concerning the existence of a national authority responsible for import and export licences and for maintenance of the relevant registers.

Mechanisms that will ensure that arms are delivered to the authorized end users must also be established.

A mechanism for the submission of periodic reports on imports and exports must be established. In fulfilling that obligation, the existing international, regional

and subregional mechanisms on such matters must be taken into account in order to avoid unnecessary duplication and dispersion of efforts.

The establishment of an implementation support unit, whose role would be to facilitate the exchange of information among States and to facilitate matches between offers of and requests for cooperation, must be considered. Under no circumstances must the unit be empowered to carry out inspections. In order to minimize its financial impact, a small department within the Office for Disarmament Affairs must be envisaged.

General provisions

The treaty must not come into effect until a sufficient number of States (60) have signed and ratified it, thereby ensuring its universality from the outset. The number must not be so low as to make it limited in its application or so high that, in practice, it gives a country or group of countries a right of veto.

France

[Original: French]
[29 March 2012]

Introduction

France associates itself fully with the contribution submitted by the European Union.

France is one of the principal stakeholders in the arms trade and is a major world exporter. It applies a responsible, binding arms sale control policy that fully respects the commitments made at the regional and international levels. Within the framework of the United Nations, it is promoting the adoption of a legally binding international instrument regulating the international trade in conventional arms. It considers that the Chair's non-paper dated 14 July 2011 provides an excellent synthesis of all the views expressed during the various Preparatory Committee meetings and that it should therefore constitute the core document for the July 2012 Conference on the Arms Trade Treaty.

The purpose of this contribution is to supplement the positions expressed by France in its April 2007 reply to the Secretary-General of the United Nations and in its various statements during Preparatory Committee meetings.

I. Preamble and principles

France considers that reference must be made to the context and history of the arms trade treaty process and to the non-selective nature of the principles of the Charter of the United Nations.

II. Goals and objectives

In France's view, the treaty must have a dual objective: to regulate the legal, and help combat the illegal, trade in conventional arms. It must lead States to adopt rules of responsible, transparent and proportionate conduct for conventional arms

transfers. Legislation must focus primarily on the regulation of legal trade while including provisions that criminalize certain illicit activities.

The future treaty must lead all States parties to put in place national arms transfer control mechanisms based on the highest possible standards. It will thereby help to reduce the number of destabilizing transfers to conflict areas and to places where they might be used to commit violations of human rights and international humanitarian law.

In order to achieve these goals, it must also include mechanisms for cooperation and assistance between States.

III. Scope of application

The scope of application of the future treaty must be both ambitious and operational in respect of the materials and the types of transfers that are subject to control: Clear, precise definitions of these materials and activities should be set out in an annex to the treaty in order, inter alia, to facilitate updating.

The scope of the aforementioned materials must be as broad as possible. It should include the categories of arms established in the United Nations Register of Conventional Arms, as well as their components and related technologies, and must be supplemented by small arms and light weapons and all types of ammunition.

Monitoring arrangements must vary according to the type of activity in question. In order to ensure the inclusion and accountability of importing and transit States, it is essential that the treaty should not create too great an imbalance between the obligations imposed on them and those imposed on exporting States. Prior authorizations for transit/trans-shipment and brokering transactions, like those for exports, should be issued in application of the criteria established by the treaty. The administrative authorities must be notified of imports, which must be authorized by them — unless the end user is a State organ — on the basis of public safety criteria.

Lastly, the future treaty should take into account the simplified procedures and waivers that are included in most control mechanisms. In order to maintain a rigorous, effective level of control, States parties' use of these procedures should be strictly limited to non-sensitive transfers (such as, inter alia, temporary transfers for legally verifiable purposes and transfers to troops deployed abroad) and transfers made within the framework of regional or bilateral agreements that are consistent with the objectives of the treaty.

IV. Criteria and parameters

States parties must evaluate export, transit/trans-shipment and brokering authorization requests on the basis of criteria established in the treaty. In that connection, priority should be given to States' compliance with their international obligations, to the need to respect human rights and international humanitarian law, to the preservation of peace, security and regional stability and to assessment of the risk of misuse of transferred arms. The impact on the economic and social development of recipient States must also be taken into account.

promote transparency and accountability at the national level in transfers of conventional arms and related material.

Scope

5. Germany believes that the instrument should cover all conventional arms, including munitions, ammunition, small arms and light weapons. As to small arms, light weapons and large-calibre artillery systems, it is essential that the instrument leave no calibre gap. Due consideration should also be given to the inclusion of parts and components specially designed or modified for military use and specifically related technology of those arms categories.

Transactions and activities

6. Only a comprehensive definition of the range of transactions and activities to be covered, i.e. transfers (export, re-export, import and transit/trans-shipment) and brokering, will make the arms trade treaty an effective global instrument. A clear focus on effective export control will be a key element in fulfilling its envisaged objectives. Keeping in mind that one approach does not fit all circumstances, different provisions for different types of transfers and activities should be envisaged so as to strike the correct balance between licensing requirements and other forms of control. Due regard should be given to the practicability of envisaged control provisions and the relationship between the administrative burden of the measures envisaged and its contribution to the objectives of an arms trade treaty.

Germany considers that an arms trade treaty should not regulate transfers occurring exclusively within a national context. In addition, military transfers, either to a State party's own troops or to allied troops within internationally recognized missions and/or operations such as those led or mandated by the United Nations, should be excluded.

A future arms trade treaty also needs to be compatible with Member States' existing obligations stemming from international or regional instruments related to the transfer of conventional arms.

Criteria and parameters

7. The determination of adequate criteria for responsible and legal transfers of conventional arms and ammunition constitutes the core of an arms trade treaty. Only an inclusive, comprehensive and ambitious approach can make a meaningful contribution to the responsible trade in conventional arms and ammunition.

8. Germany maintains that the criteria and parameters of an arms trade treaty should reflect the following elements: compliance with Security Council resolutions on arms embargoes and sanctions; compliance with other legally binding arms embargoes or sanctions adopted by regional or subregional organizations to which individual States are parties; and compliance of the recipient State with international humanitarian law and respect for human rights. When there is a clear risk that transferred arms contribute to serious violations of human rights and international humanitarian law, States parties should deny such exports.

Other criteria to be taken into account by an exporting State when assessing a decision to authorize or deny an arms export should include: compliance of the recipient State with international commitments and obligations, in particular with

regard to terrorism, organized transnational crime and the non-use of force; consideration of a substantial risk of adverse effect on regional security and stability, including the impact on existing or potential inter-State and intra-State conflicts; consideration of a substantial risk of diversion to unintended and unauthorized end users or to the illicit market, including risk of re-export unauthorized by the country of origin; and consideration of the impact on the sustainable socioeconomic development of the receiving State. States parties should assess, on a national basis and in a manner appropriate to the specific type of transfer, all transfers of conventional arms included in the scope of an arms trade treaty against these criteria.

For imports, the use of criteria and their precise nature should be determined at the national level.

Implementation mechanism

9. The implementation of transfer controls in accordance with an arms trade treaty should be a national responsibility. Each State party must ensure that its legal and administrative system enables it to control all items and transactions covered by the treaty. States parties must be required to establish and maintain national legislative and administrative measures and to prohibit, prosecute and penalize participation in non-authorized transfers. Implementing an arms trade treaty must not imply a lowering of standards where States parties are already committed to more stringent control standards.

10. To help States parties to benefit to the full from the instrument, appropriate national records of assessed transfers will have to be kept and adequate transparency and reporting requirements will be necessary. States parties should be required to submit regular (preferably annual) reports on authorized transfers, including data aggregated by country and by category and the status of implementation of their obligations under the treaty.

International cooperation and assistance

11. Germany believes that an arms trade treaty should include provisions on international cooperation and assistance that should foresee the possibility of States parties' seeking assistance to facilitate implementation of the treaty at the national level. States parties in a position to do so could provide assistance in the fields of, for example, legislation, institution-building and development of necessary administrative measures and of appropriate expertise in all national bodies involved in the transfer control system. States parties should also cooperate by voluntarily exchanging relevant information that could facilitate the assessment by national authorities of conventional arms transfers applications in accordance with the provisions of an arms trade treaty. This cooperation could include the voluntary provision of mutual legal assistance to facilitate investigations into possible violations of the provisions of the treaty, including in tracing diverted transfers of weapons.

Final provisions

12. This section should include elements that are traditionally included in international treaties and also define the number of ratifications necessary for the treaty to enter into force. That threshold should be quantitative rather than

qualitative, and sufficiently high. Dispute settlement provisions should apply to the implementation of treaty obligations and not to individual decisions on authorization of transfers, which remain a national responsibility.

India

[Original: English]
[30 March 2012]

As a responsible member of the international community and a significant importer and exporter of conventional arms, India has participated constructively in the preparatory process for the United Nations Conference on the Arms Trade Treaty. India believes that prospects for a viable and effective treaty of universal acceptance would be enhanced if the interests of all States were addressed through a consensus-based process and outcome. As per paragraph 26 (c) of the report of the Preparatory Committee, India submits the following views on possible elements of an arms trade treaty without prejudice to its right to make specific proposals at the Conference.

Objective and principles

The primary objective of the treaty should be to prevent illicit trafficking in conventional arms, in particular their diversion to non-State actors, including terrorists. The treaty should not prejudice the right of States to self-defence under Article 51 of the Charter of the United Nations, which also implies that States have the legitimate right to acquire means for self-defence, including through the development, manufacture, acquisition and import of arms required to ensure their national defence. This also implies that States enjoy the right to engage in trade of arms, including export to another country in accordance with their foreign policy and national security objectives.

Scope

India could support coverage of the seven main categories of the Register of Conventional Arms, in addition to the optional category of small arms and light weapons. We do not support the inclusion of parts, components, technology transfer and manufacture under foreign licence as these involve complex commercial, legal (including pre-existing international legal obligations) and intellectual property issues. We note that the original mandate for the arms trade treaty in the relevant General Assembly resolution referred only to the import, export and transfer of conventional arms.

Parameters

Criteria or parameters that should be taken into account in assessing transfers should be objective, non-discriminatory and predictable so that they can be uniformly understood and implemented by States parties without discrimination. They should not impede the full implementation of and compliance with specific contracts once they are concluded. Ambiguous and broad-based language such as "commitments" or "regional stability" should be avoided as it could lead to politicization and discriminatory application. In other words, parameters should be linked to international principles, actions and determinations made by the relevant

United Nations bodies so that their implementation is credible, non-discriminatory and authoritative. They should include principles determined internationally by United Nations bodies with regard to illicit use or acts so as to address the risk of illicit transfers to terrorists and transnational crime syndicates. In this context, the defence industry operating legitimately under national laws and regulations is not a non-State actor.

Implementation

India believes that establishing and exercising control over trade in conventional arms is primarily a national responsibility that States should discharge with regard to their obligations under international law and in accordance with their national legal framework and their legitimate security and foreign policy concerns. The proposed treaty should not prescribe how transfer control systems should be designed and enforced. The implementation of the proposed instrument should clearly be a national responsibility and the relevant provisions should promote uniform and non-discriminatory implementation at the national level.

Furthermore, the rights and obligations of exporters and importers should be reflected in a balanced manner in the implementation of the treaty provisions. Thus, for example, importers should not be burdened with onerous documentation requirements.

Reporting requirements should track existing requirements in the context of the Register of Conventional Arms.

We are not convinced of the need for a separate secretariat for the implementation of the treaty. Although international assistance and cooperation will be important, these needs can be met through the existing infrastructure.

Final provisions

India could consider a traditional numerical approach to entry into force. There may not be any need to specify in the instrument how States parties to the treaty should relate to States that are not parties. The treaty should not apply retrospectively or affect pre-existing agreements in any manner.

Indonesia

[Original: English]
[30 March 2012]

Preamble

The preamble should recognize the need to address the problems relating to unregulated trade in conventional weapons and the risks of their diversion towards illicit market or illegitimate purposes, where the treaty should strike a fair balance between the interests of exporting States and importing States and should not generate political conditionalities on countries that are developing their own legitimate capabilities in conventional weapons and in the transfer of technology of such weapons.

Principles

The treaty should reaffirm the rights of all States to territorial integrity, political independence and self-defence.

Goals and objectives

The treaty should seek to prevent and eradicate the illicit transfer of conventional arms and their diversion into the illicit market, including for use in transnational organized crime and terrorism.

Scope

For the purpose of the treaty, conventional arms should include any items that fall within the following categories: tanks, military vehicles, artillery systems, military aircraft (manned or unmanned), military helicopters (manned or unmanned), naval vessels (surface and submarine vessels armed or equipped for military use), missile and missile systems (guided or unguided), small arms and light weapons.

Criteria

In reaching a decision on whether to authorize an export application, competent national authorities of States parties should make assessments of whether to transfer arms on an objective and non-discriminatory basis, taking into account the information provided by the concerned importing State; the information, if any, provided by the relevant regional organization in which the concerned importing State is located or party to; and other information on the nature of the arms to be transferred and risk assessments of the potential use of the weapon and the end user.

International, regional and subregional obligations of a State

A State party should not authorize a transfer of arms as defined by the treaty from, to or through territories under its jurisdiction if the transfer would violate arms embargo measures adopted by the Security Council acting under Chapter VII of the Charter of the United Nations.

Potential consequences of arms transfer on peace and security

A State party should not authorize a transfer of arms as defined by the treaty if there is a substantial risk that those arms would:

1. Be used in a manner that would seriously undermine peace and security or aggravate regional or international instability;

2. Be used to directly commit or facilitate serious and systematic violations of international humanitarian law and human rights law;

3. Be diverted to unauthorized end users for use in a manner inconsistent with the principles, goals and objectives of the treaty, taking into account the risk of corruption;

4. Be used to support, encourage or perpetrate terrorist acts.

Implementation

1. The provisions of the treaty should be implemented in a manner that would avoid hampering the rights of States parties.

2. Each State party should assign the highest priority and standards to ensuring that implementation in accordance with the treaty is consistent, non-discriminatory, not subjective in nature and does not represent, among others, political abuse and conditionalities.

3. Each State party should maintain consultations and share information regarding the implementation of the treaty, as a confidence-building measure.

4. Should different interpretations of provisions that relate to the criteria of the treaty arise between the exporting State and the importing State, consultations between the relevant States should be convened to settle the matter so that the credibility and consistency of implementation of the treaty are preserved.

5. When considering a potential transfer denial, the parties involved in the potential transaction should consult each other to ensure credible implementation of the treaty and allow the importing State the opportunity to take any necessary measures to avoid a denial of transfer.

6. In making an assessment as to whether there is a serious and systematic violation of international humanitarian law and human rights law, there should be a consultation forum within the treaty, in particular for use by the exporting and importing States.

7. To ensure consistent and non-discriminatory implementation and to avoid political abuse of the treaty, an independent advisory group endorsed by the States parties to the treaty should be established.

Ireland

[Original: English]
[30 March 2012]

Ireland looks forward to the United Nations Conference on the Arms Trade Treaty in July, where it hopes that agreement can be reached on a strong and robust arms trade treaty.

The non-paper of July 2011 prepared by the Chair of the Preparatory Committee has formed the backdrop for much of the discussion to date on what might be included in the treaty. The paper provides the only viable basis for our discussions at the Conference in July.

Ireland aligns itself fully with the position of the European Union on the treaty.

Principles

The treaty should be a legally binding instrument regulating all transboundary transactions. It should underline the obligations of States parties under international human rights law and international humanitarian law, and should stress that disarmament, non-proliferation and arms control are essential for the maintenance

of international peace and security. The treaty should also acknowledge the right of States parties to participate in crisis-management operations mandated by the United Nations.

Goals and objectives

The treaty must strive for the highest international standards possible for the import, export and transfer of conventional arms. It must contain agreed standards that will prevent the illicit transfer, production and brokering of conventional arms and their diversion into the illicit market. It must also contain agreed standards that will contribute to and promote the goals and objectives of the Charter of the United Nations and enhance international peace and security by preventing transfers of arms that could facilitate serious violations of human rights and international humanitarian law. It must be strong and robust so as to be effective and must be universal in its application.

Scope

The treaty should cover all conventional arms and related technology, with appropriate language to encompass future technical and technological developments. It should set out clearly the categories covered, drafted in such a way as to prevent loopholes. The Register of Conventional Arms would be a good starting point, to be complemented by instruments such as those developed by the European Union and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. Small arms and light weapons must form part of the treaty, as must all ammunition and other munitions, including explosives.

Items to be covered should include:

Tanks;

Vehicles and armoured vehicles (including amphibious vehicles);

Artillery systems (no calibre gap should exist between this category and that of small arms and light weapons);

Aircraft (fixed-wing and variable-geometry-wing aircraft, including reconnaissance, electronic warfare, transport and refuelling aircraft);

Unmanned aerial vehicles;

Helicopters (rotary-wing helicopters, including reconnaissance, electronic warfare, transport and refuelling helicopters);

Surface vessels and submarines;

Missiles and missile launchers (guided and unguided, including torpedoes and man-portable air defence systems);

Small arms and light weapons (no calibre gap should exist between this category and that of artillery systems);

Ammunition;

Explosives;

Other military systems and munitions, including manufacturing technology, electronics, computers, telecommunications, information security, sensors and lasers, transportation equipment and training devices.

Criteria and parameters

Among the broad criteria to be applied in considering an application should be the following:

Compliance with Security Council resolutions on arms embargoes and sanctions or restrictive measures;

Compliance with other legally binding arms embargoes, sanctions or restrictive measures adopted by regional or subregional organizations to which individual States are parties;

Compliance with international humanitarian law and international human rights law;

Compliance of the recipient State with international norms and standards, in particular with regard to terrorism, organized crime and the non-use of force;

The risk of adverse effect on regional security and stability, including impact on existing or potential inter-State and intra-State conflicts;

The risk of diversion to unintended and unauthorized end users or to the illicit market, including risk of re-export that is not authorized by the country of origin;

The likely impact on the sustainable socioeconomic development of the receiving State and/or region, in particular with regard to terrorism, organized crime and the non-use of force.

Decisions on the authorization of transactions will remain the competence of the individual transferring State. There should be an information-sharing mechanism designed to ensure transparency in the implementation of the treaty, encompassing both approvals and denials. To promote mutual confidence and consistency in application, there should be robust monitoring and enforcement mechanisms. Unduly cumbersome requirements should, however, be avoided.

Implementation

Ireland believes that all aspects of the arms trade should be addressed in the implementation of an arms trade treaty, including exports and re-exports, imports, brokering, transit and trans-shipment. We believe that effective control of all these activities is essential to properly regulate the international arms trade.

Reporting will be a key element of an effective arms trade treaty regime and we support the adoption of as high a level of transparency as is practicable.

We believe that an effective and focused implementation support unit is an essential element in both the implementation and application of an arms trade treaty and in facilitating consultations between States parties, including, where appropriate, the bilateral exchange of information. We believe that without a standing support unit the treaty is unlikely to prove effective.

International cooperation and assistance

Ireland can support provisions on international cooperation and assistance where States parties can offer or receive assistance, on a voluntary basis, bilaterally or through the United Nations system, related to the implementation of the treaty. Ireland can similarly support provisions on victim assistance.

Final provisions

Ireland does not consider that the treaty should contain provisions for reservations.

Transactions and activities to be covered by the treaty

A comprehensive approach is called for under this heading. All transactions involving trade in armaments should be covered, including, specifically, import, export, re-export, transfer, transit, trans-shipment, technical assistance related to conventional weapons, including training, repairing, maintenance and upgrading and transfer of technology, and brokering activities.

Japan

[Original: English]
[30 March 2012]

Japan has been a strong proponent of international efforts on disarmament and has voluntarily implemented strict standards for the import, export and transfer of conventional weapons. Strengthening of rules related to trade in conventional arms through the realization of an arms trade treaty matches Japan's foreign policy objectives in this field.

As one of the co-authors of the resolution by which the General Assembly launched the treaty process, Japan is of the view that this process should aim at formulating an effective treaty, helping to prevent international conflicts from worsening and securing the participation of the widest range of States.

The Chair's non-paper of 14 July 2011 is a useful compilation of the views expressed by Member States in the sessions of the Preparatory Committee, which Japan strongly supports and firmly believes should serve as an appropriate basis for the negotiations at the United Nations Conference on the Arms Trade Treaty in July. In response to the request made in the report of the Preparatory Committee, Japan hereby submits its views on the elements of an arms trade treaty as outlined in the Chair's non-paper.

Goals and objectives

1. An arms trade treaty must establish the highest possible common international standards for the export, import and transfer of conventional arms.

2. An arms trade treaty must be effective. For that purpose, the treaty needs to be concluded by a large number of States, including both major exporting and importing States.

3. An arms trade treaty must not place restrictions on arms trades related to the legitimate defence needs of each Member State, pursuant to Article 51 of the Charter of the United Nations.

4. The absence of common international standards on the import, export and transfer of conventional arms is a contributory factor to conflicts, serious violations of international human rights and humanitarian law, displacement of people, crime and terrorism. An arms trade treaty should prevent, combat and eradicate these negative effects and should serve the objectives of maintaining and enhancing peace, reconciliation, safety, security, stability and sustainable development.

5. The illicit transfer of conventional arms inflicts substantial damage on innocent citizens. Strengthening the rule of law relating to control of arms transfers plays a significant role in promoting the safety of citizens and contributes to enhancing human security.

Scope

1. Japan considers that an arms trade treaty should include in its scope most conventional weapons, including small arms and light weapons and munitions, but should in principle exclude dual-use items. Furthermore, Member States should consider whether to include parts and components exclusively designed for weapons and facilities existing exclusively for arms production and technologies exclusively related to arms production. Due regard should be paid to the effectiveness of such regulations.

2. In the light of the fact that an overwhelming number of people die every year as a result of the use of small arms and light weapons, it is evident that an arms trade treaty should include these categories of arms in its scope. Were these categories not included, it would be difficult to achieve the purposes of the treaty.

3. Among transactions to be regulated under an arms trade treaty, the primary focus should be on export in order to control arms trades effectively. The treaty should, however, regulate other transactions, such as import, transit and brokering, as widely as possible to ensure comprehensive control of arms trades.

4. While the scope of control under an arms trade treaty should remain broad, a differentiated approach by type of weapon and transaction could be adopted when designing specific control and reporting mechanisms. Such an approach would take into account the characteristics of individual weapons, security concerns and technological factors.

Transfer criteria

1. Transfers of conventional arms must not be authorized if there is a substantial risk that those arms would be used: in a manner that would aggravate international or regional conflicts and instabilities; to commit serious violations of obligations under relevant international agreements such as those on prevention of crime, international humanitarian law or international human rights law; or in support of acts of terrorism. In this regard, Japan strongly supports the elements suggested in the Chair's non-paper as an appropriate basis for discussion.

2. The wording of the transfer criteria in an arms trade treaty should be elaborated as clearly as possible and should ensure the objective operation of the

treaty. It is appropriate that States parties have the authority to apply the criteria, taking into account relevant internationally available criteria and guidelines.

Implementation

1. An implementation mechanism must ensure that States parties implement an arms trade treaty properly, in accordance with transfer criteria established by the treaty. Regarding export, it is essential to establish an effective national control system and to implement it appropriately.

2. It is also essential to put in place an effective implementation mechanism for transactions other than export, such as import, transit and brokering. Control measures for such transactions should be crafted based on feasibility, according to each type of transaction. In particular, control measures on transit and brokering should be considered in the light of national legislation, law enforcement capacity and the actual administrative burden of each State party.

3. A reporting mechanism is indispensable in ensuring transparency and accountability. The specific form of such a mechanism should be designed in a way that enables the widest possible participation of States in an arms trade treaty and taking into account the actual administrative burden created by such a mechanism.

International assistance

International assistance in building States parties' capacity, including cooperation in the fields of information exchange, education and training and support for the preparation of relevant domestic laws, is essential in ensuring the effectiveness of an arms trade treaty. It is necessary that each State party, where feasible, extend international assistance that matches the needs of recipient States, making the best possible use of existing resources.

Kenya

[Original: English]
[30 March 2012]

Kenya is a co-author of General Assembly resolution 61/89 of 6 December 2006 on the establishment of an arms trade treaty and is pleased to play a leading role in the international and regional efforts to come up with a global and legally binding treaty. Kenya supports the non-paper submitted by the Chair in July 2011 and believes it to be a fair reflection of the general discussions in the treaty process to date and that it should be used as the basis for negotiations during the United Nations Conference on the Arms Trade Treaty to be held in July 2012.

There are, however, some elements that Kenya believes would benefit from clarification and others that could be added, as discussed below. Kenya looks forward to working closely with the Chair and other States in order to produce a strong and robust arms trade treaty.

I. Preamble

Kenya supports the preamble as set out in the Chair's non-paper and in particular its strong humanitarian focus and its recognition of the need to prevent

the destabilizing effects of excessive and uncontrolled conventional arms. Kenya further supports the provision in the Chair's non-paper recognizing the sovereign right of States to determine any regulations of internal transfers of arms and national ownership exclusively within their territories, including through national constitutional protections on private ownership.

Kenya recommends that the preamble also recognize that civil society has an important role to play in supporting treaty implementation.

II. Principles

Kenya supports the principles as set out in the Chair's non-paper, in particular the references to the Charter of the United Nations; peace and security, development and human rights as foundations for collective security; the political independence, sovereign equality and territorial integrity of all States; the right to self-determination; the inherent rights of all States to individual or collective defence; the general prohibition against the use or threat of use of force; and States' rights and obligations under international law, including international human rights law and international humanitarian law. Kenya further agrees with the principle that disarmament, non-proliferation and arms control are essential for the maintenance of international peace and security.

III. Goals and objectives

Kenya supports the goals and objectives as set out in the Chair's non-paper, especially the establishment of the highest possible common international standards for the import, export and transfer of conventional arms and the universal application of the treaty. Kenya recommends that the goals and objectives also include regulation regarding brokering and manufacturing under foreign licence and the transfer of technology.

IV. Scope

Kenya believes that the scope of the arms trade treaty should be as wide as possible. Kenya supports the comprehensive approach of the Chair's non-paper to the scope of the treaty in providing a fairly exhaustive list of arms. The inclusion of small arms and light weapons is supported because such weapons cause immense suffering to people within the Great Lakes and Horn of Africa regions and bordering States.

Regarding the types of transaction or activities to be covered, Kenya agrees that the treaty scope should include import, export, transfer, transit/trans-shipment, brokering, manufacture under foreign licence and technology transfer. These terms require clarification, however, to ensure consistency in their use as described in section IX of this submission.

V. Criteria and parameters

Kenya is of the view that decisions on weapons transfers should remain under national control and that States parties should ensure all international transfers of conventional arms are subject to strict control. The treaty should clearly spell out the responsibilities of States and the factors they should consider when deciding whether or not to allow a transfer. Kenya therefore strongly supports the

comprehensive nature of the Chair's text on criteria reflecting States' existing obligations under international law. In particular, we support the principle that States have a duty to refuse and therefore shall not authorize a transfer of conventional arms where there is a substantial risk that they would be used in violation of international human rights law, international humanitarian law or Security Council decisions; would be used in the commission of a crime or to support terrorist acts; or would undermine sustainable development objectives. Piracy as a form of organized crime, however, needs to be highlighted under this section.

VI. Implementation

Kenya supports the comprehensive approach to the implementation of the treaty as outlined in the Chair's non-paper. In particular, Kenya supports the requirement that each State party shall take the necessary legislative and administrative measures to adopt, as necessary, national laws and regulations to implement the obligations of the treaty. Kenya, however, recommends that the treaty provide guidance on what will be necessary for States to include in their national regulatory systems. Kenya further supports the requirement that States designate competent national authorities for arms-transfer authorization, maintain a national control list of items under the scope of the treaty and provide all necessary documentation to other States in the arms-transfer chain.

Kenya believes that States involved in the entire process of arms transfers must take responsibility in ensuring that arms transfers are carried out in accordance with the provisions of the treaty and that arms are not diverted to the illicit market or unintended end users. Kenya therefore supports the provision that States parties should be required to take all necessary measures to control not only exports but all transfers included in the scope of the treaty.

Record-keeping, reporting and transparency

Kenya supports the need for the treaty to contain record-keeping, reporting and transparency provisions. Kenya recommends, however, that the treaty make clear the purpose of reporting and record-keeping. On reporting, the treaty should avoid any potentially burdensome process that could easily lead to reporting fatigue by States parties.

Kenya is of the view that all of the optional record-keeping as set out in the Chair's text should be mandatory and that all records should be maintained until such a time as those arms are destroyed or permanently decommissioned.

Enforcement

Kenya fully supports the provisions of the Chair's non-paper with regard to enforcement, in particular the need for States to establish legislative, law enforcement and judicial mechanisms, together with penalties, for violations of relevant national laws.

Implementation support unit

Kenya strongly supports the establishment of an implementation support unit with specific tasks assigned to this unit as set out in the Chair's non-paper.

VII. International cooperation and assistance

Kenya supports the provisions with regard to international cooperation, including information exchange, and cooperation in terms of law enforcement and mutual legal assistance.

Kenya supports the provisions relating to international assistance to strengthen capacity and build national capabilities to implement the treaty, including with regard to the offer and receipt of technical, legal, material and financial assistance.

Kenya supports the provisions of the Chair's non-paper with regard to victim assistance, inter alia, through the United Nations system, international, regional, subregional or national organizations, non-governmental organizations or on a bilateral basis, as appropriate.

VIII. Final provisions

Kenya supports the provisions regarding final provisions of the treaty, including the establishment of an assembly of States parties and a review conference to be held every five years.

Kenya believes that clear and effective dispute settlement provisions are required. Kenya supports the provision that States parties consult and cooperate with each other to settle any dispute that may arise with regard to the application or interpretation of the treaty. Kenya also agrees that parties shall settle any dispute between them concerning the interpretation or application of the treaty by peaceful means in accordance with Article 2, paragraph 3, of the Charter of the United Nations.

IX. Transactions and activities to be covered by the treaty

Kenya believes the treaty should cover all types of international transactions and activities in conventional arms as outlined in annex A to the Chair's non-paper. Kenya supports that, in the annex to the Chair's non-paper, the term "transfer" is defined as including import, export, re-export, temporary transfer, trans-shipment, transit, transport, leases, loans and gifts of conventional arms; that the term includes the transfer of title or control over the equipment as well as the physical movement of the equipment into or from a national territory; and that the annex further refers to brokering, manufacture under foreign licence and technology transfer.

As far as transactions are concerned, it is important to ensure that the terminology used is clear and consistent. Kenya recommends that the use throughout the Chair's non-paper of some of these terms be clarified to ensure consistence in their use. For example, in section IV of the Chair's non-paper, "transfer" would appear to be distinct from "import" and "export", whereas in the annex it appears to include the terms.

Kenya recommends that the treaty address technical assistance or training provided in connection with, or maintenance and upgrades of, items falling within the scope of the treaty. It should also refer to ancillary services such as financing or insuring international arms transfers.

Liechtenstein

[Original: English]
[2 April 2012]

Liechtenstein welcomes the non-paper submitted by the Chair on 14 July 2011 as a solid basis for negotiating the arms trade treaty. Liechtenstein is of the view that the text should be further strengthened and clarified, especially with regard to terminology and criteria constituting reasons for arms transfer denials.

Liechtenstein would welcome a more coherent use of terminology throughout the text, in particular regarding the numerous references to activities regulated by the draft treaty, such as "import", "export" and "transfer". It is suggested that the word "transfer" be used as the default term of reference throughout the draft treaty, and that this term be defined in section IV (Scope) as encompassing all relevant activities, including import, export, brokering, manufacture under foreign licence and technology transfer.

Regarding the structure of the draft treaty, Liechtenstein suggests the following changes to improve its coherence:

Preamble (including paragraphs currently contained under "Principles")

1. Scope
2. General obligations (currently entitled "Implementation", to include the section currently entitled "Enforcement")
3. National control systems (currently entitled "National authority and systems")
4. Criteria
5. Notification
6. Record-keeping (first two paragraphs only)
7. International cooperation and assistance (merge "International cooperation" and "International assistance")
8. Victims assistance
9. Implementation support unit
10. Reporting and transparency
11. Final clauses

The substantive views of Liechtenstein regarding the draft treaty are submitted below in the form of concrete suggestions based on the Chair's text.

I. Preamble

At the beginning, insert the phrase: "The States parties to the present Treaty".

2. Recognizing that the absence of commonly agreed universal, legally binding international standards and guidelines for the transfer of conventional arms and their diversion to the illicit market are contributory factors to armed conflict, serious violations of international human rights law and international humanitarian law,

severe human suffering, gender-based violence, the internal and cross-border displacement of people, transnational organized crimes, terrorism and the illicit trade in narcotics and other goods, thereby undermining peace, reconciliation, safety, security, stability, human rights and sustainable development in all its dimensions;

4. Recognizing the need to prevent, combat and eradicate the irresponsible and illicit trade of conventional arms and related items and the responsibility of all States to effectively regulate and control transfer of items under the scope of this Treaty;

7.bis Aware of the right of victims of armed conflict to adequate care and rehabilitation as well as their social and economic inclusion;

II. Principles

The section entitled "Principles" contains preambular paragraphs and should therefore be merged with the draft preamble by deleting the title "II. Principles".

4. Delete (duplication with para. 3).

9. Recognizing that disarmament, non-proliferation and arms control are essential for the maintenance of international peace and security and that States should not undermine any of these efforts, including those by relevant regional and subregional organizations;

11.bis Noting that nothing within the Treaty can be interpreted as an obligation or an encouragement for States to engage in arms trading or related activities;

III. Goals and objectives

This Treaty will seek to:

2. Establish the highest possible common international standards for the transfer of conventional arms by means of a legally binding regulatory framework;

3. Prevent, combat and eradicate all forms of illegal, illicit and irresponsible transfer of conventional arms and their diversion to the illicit market;

4. Contribute to international and regional peace, security and stability by preventing international transfers of conventional arms that contribute to or facilitate human suffering, serious violations of international human rights law and international humanitarian law, violations of United Nations Security Council sanctions and arms embargoes and other international obligations, armed conflict, the internal and cross-border displacement of people, gender-based violence, transnational organized crime and terrorist acts and thereby undermine peace, reconciliation, safety, security, stability, human rights and sustainable development in all its dimensions; and

IV. Scope

1. For the purposes of this Treaty, the term "conventional arms" shall include [continue with the text as contained in the Chair's non-paper].

2. For the purposes of this Treaty, the term "transfer" shall be defined as the following transactions or activities, as further defined in annex A:

(a) Import

(b) Export

(c) Transfer

(d) Brokering

(e) Manufacturing under foreign licence

(f) Technology transfer

V. Criteria

In reaching the decision whether or not to authorize a transfer of conventional arms, competent national authorities of States parties shall make rigorous assessments on an objective and non-discriminatory basis, taking into account information on the nature of the arms to be transferred and risk assessment of the potential use of the weapon, the end user and the end use.

B. Potential consequences of arms transfers on peace and security

4. Be used to commit or facilitate serious violations of international criminal law, including genocide, crimes against humanity, war crimes and crimes of aggression.

6.bis Be diverted to individuals indicted by the International Criminal Court.

6.ter Be diverted to end users or end uses, where transfer has previously been denied by any State party.

VI. Implementation: change title to "General obligations"

3. Each State party shall take the necessary legislative and administrative measures to adapt, as necessary, national laws and regulations, to implement the obligations of this Treaty and to ensure that other bilateral or multilateral agreements are implemented in a manner compatible with the object and purpose of this Treaty.

6. Each State party, during the implementation of this Treaty, is encouraged to maintain consultation with other States parties, the Implementation Support Unit and other relevant stakeholders, and to share information regarding the implementation of this Treaty as well as best practices, as confidence-building measures.

A. National authority and systems: change title to "National control systems"

Delete subtitle "Authorization systems".

1. Each State party shall establish a transparent, predictable and effective national control system for the authorizing and licensing of transfers of conventional arms under the scope of this Treaty, and to this end designate competent national authorities, define their respective duties and responsibilities, and ensure adequate coordination at the national level between those authorities. (Switch the order of the two main elements of this paragraph to clearly express its main purpose.)

2. In deciding whether to authorize a transfer of conventional arms under the scope of this Treaty, each State party will assess the transfer against the assessment criteria in article XX, will take the relevant previous assessments of other States parties into consideration and will verify that all certifications and documentations related to the transfer are complete, authentic and correct.

3. Each State party will have a publically available national control list of those items subject to this Treaty, consistent with the terms of this Treaty under article XX.

7.bis Each State party will mark conventional arms manufactured under its jurisdiction according to international standards with a view to facilitating the marking and tracing of conventional arms on a global scale.

Notification systems

1. States parties shall provide each other appropriate documentation and other information, inter alia, end user and end-use certification, to assist the national control systems in their criteria assessment and to verify the delivery to the approved end user and for the approved end use.

Record-keeping

1. States parties shall maintain records of all arms authorizations and licences, transfers and denials under their jurisdiction. Such records should contain, inter alia, quantity, model/type, arms transfers authorized and refused, arms actually transferred, details of transit State(s) and recipient State(s), information related to the marking and tracing of the items, end user and end usage. Records shall be kept for a minimum of 20 years.

2. Delete (overlap with para. 1).

Enforcement

3.bis States parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of such offences, including assistance in obtaining evidence in their possession necessary for the proceedings.

VII. International cooperation and assistance

1.alt Each State party in a position to do so, and where appropriate, may offer or receive assistance for the care and rehabilitation, and the social and economic reintegration, of victims of armed conflict, in accordance with international law, international humanitarian law and international human rights law.

VIII. Final provisions

3.bis Any dispute between two or more States parties with respect to interpretation or application of this Treaty, which is not settled by negotiation or by the procedures expressly provided for in this Treaty, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the parties to the dispute agree to another mode of settlement.

Malawi

[Original: English]
[31 March 2012]

I. Preamble

The preamble should underline the primary intention of the treaty, thus:

Recognizing that the absence of commonly agreed international standards for the transfer of conventional arms and their diversion to the illicit market are contributory factors to armed conflict, serious violations of international human rights law and international humanitarian law, gender-based violence, the displacement of people, transnational organized crime and terrorist acts, thereby undermining peace, reconciliation, safety, security, stability and sustainable social and economic development.

II. Principles

Key principles include:

Guided by the purposes and principles enshrined in the Charter of the United Nations, and reaffirming States parties' respect for and commitment to their obligations under international law including international human rights law and international humanitarian law;

Recalling the obligations of all States to comply with Security Council resolutions, in particular arms embargoes and sanctions;

III. Goals and objectives

Objectives should seek to:

Create high, common international standards for the import, export and international transfer of conventional arms;

Prevent international trade and transfers of conventional arms that provoke or prolong armed conflict, violate arms embargoes set by the United Nations, and that contribute to serious violations of international human rights law and international humanitarian law, the displacement of people, organized crime, terrorist acts and poverty;

Contribute to regional and international security and stability by promoting transparency and greater responsibility in the trade and transfer of conventional arms;

Create controls to prevent the diversion of conventional arms from legal markets and uses to illicit markets and unauthorized uses and users.

IV. Scope

The treaty should cover all types of international trade, transfers and transactions in "conventional arms", which is defined as all weapons, munitions, armaments and related material, including parts, components and technologies, used for military and internal security operations, including:

(a) Tanks;

(b) Military vehicles;

(c) Artillery systems;

(d) Military aircraft (manned or unmanned);

(e) Military helicopters (manned or unmanned);

(f) Naval vessels (surface and submarine vessels armed or equipped for military use);

(g) Missiles, missile systems and projectiles (guided or unguided);

(h) Small arms;

(i) Light weapons;

(j) Munitions and ammunition for use with weapons defined in subparagraphs (a) to (i);

(k) Parts or components specially and exclusively designed for any of the categories in subparagraphs (a) to (j);

(l) Technology and equipment specially and exclusively designed and used to develop, manufacture or maintain any of the categories in subparagraphs (a) to (k).

The treaty should cover all types of international trade, transfers and transactions in conventional arms: this includes exports, imports, re-exports, reimports, transits, trans-shipments, temporary imports, State-to-State transfers, retransfers, gifts, sales, loans and leases. International transfer should mean the physical movement of equipment and the tangible or intangible movement of technology into or from national territory and include the transfer of title to and control over the equipment and technology, including controls on arms brokering, arms transport and arms finance activities.

The treaty should not apply to the:

(a) Regulation of the movement or possession of conventional arms within the territory of a State party;

(b) Physical movement, sending in any manner or transfer of title, control or ownership of conventional arms from a State's territory to that State's own armed forces or other official personnel within another State's territory;

(c) Physical movement or sending in any manner of conventional arms from one State to a storage facility in another State's territory which remains under the title and control of the first State.

V. Criteria and parameters

Decisions on international transfers should remain under national control, but States should ensure that all international transfers of conventional arms relevant to their jurisdiction are subjected to strict control and authorized according to internationally agreed standards.

Each State party should assess, on a case-by-case basis, applications or proposals to authorize an export or international transfer of conventional arms,

undergoing a risk assessment of the potential use of the conventional arms and the end user and end use.

A State party should not issue an authorization where the export or international transfer under assessment:

(a) Would violate any measure adopted under Chapter VII of the Charter of the United Nations, including arms embargoes set by the United Nations;

(b) Would violate any arms embargo adopted by a regional or subregional organization to which it is a party;

(c) Would violate any treaty obligation on non-proliferation, small arms and light weapons or other arms control and disarmament agreement to which it is a party.

States parties should not export or transfer conventional arms internationally where there is a substantial risk that the conventional arms will be used to commit or facilitate serious violations of international human rights law or international humanitarian law, including sexual and gender-based violence, perpetuate a pattern of or facilitate high levels of homicides with firearms or seriously undermine poverty-reduction objectives. Where this is the case, the export or transfer authorization should be denied until there is clear evidence that the substantial risk has been removed and mitigated.

In undertaking a risk assessment as part of the decision-making process of an export or international transfer authorization, States should consider, inter alia:

(a) The compatibility of that export or international transfer with its international, regional or subregional commitments or decisions on non-proliferation, small arms and light weapons, arms control and disarmament;

(b) Whether the export or international transfer would adversely affect regional security and stability or contribute to the excessive and destabilizing accumulation of arms;

(c) Whether the export or international transfer would undermine peacebuilding or post-conflict reconciliation and reconstruction initiatives;

(d) The desirability that States should meet their legitimate security and defence needs with the least diversion for arms of human and economic resources;

(e) The record of compliance by the recipient State with end-use undertakings and transparency in the field of conventional arms control;

(f) The ability and willingness of the recipient State to implement stockpile management and security procedures and to protect against unauthorized transfers, loss, theft and diversion.

VI. Implementation

National authorization systems must establish or maintain a comprehensive system to control and ensure that conventional arms cannot be imported, exported or internationally transferred without the awareness and consent of all States involved.

States parties should:

(a) Designate competent national authorities, define their respective duties and responsibilities and ensure adequate coordination at the national level between those authorities to have a transparent and effective national control system;

(b) Take measures to ensure the authenticity of authorization documents;

(c) Require valid export and international transfer authorizations to be issued in writing, containing minimum disclosure requirements, prior to export and transfer;

(d) Require a certified end-use/end-user certificate or assurance, where necessary, prior to issuing an export authorization;

(e) Establish a clear legal framework for arms brokering, arms transport and arms financing activities that includes registration of such actors, licensing of such activities, the disclosure of all brokers and their location in any export or import authorization application and the disclosure of transport and financial service providers;

(f) Adopt legislative and other measures as necessary to establish as criminal offences the import, export, transit, trans-shipment or other international transfer of conventional arms, or the brokering, transporting or financing of conventional arms, which are not authorized.

To prevent the diversion of conventional arms from legal into illicit transfers, each State party should take appropriate measures, including:

(a) To ensure the physical security and lawful management of conventional arms at the time of import, export, transit, trans-shipment or any other form of international transfer through its territory;

(b) To ensure and if necessary increase the effectiveness of national controls of the import, export and other international transfer of conventional arms, including, where appropriate, border controls, and of police and customs transborder cooperation.

National record-keeping

All States should keep records of the international arms transfers that the national authorities have authorized and that have been cleared by customs.

Reporting obligations

All States parties should submit:

(a) Annual public national reports covering all generic types of conventional arms and forms of international transfer;

(b) Reports detailing national implementation of obligations.

VII. International cooperation

To enhance international cooperation, all States parties should:

(a) Exchange relevant case-specific information, consistent with their respective domestic legal and administrative systems, on matters such as authorized importers, exporters and brokers of conventional arms and ammunition;

(b) For the purpose of law enforcement and upholding the purposes of the treaty, exchange relevant information on matters, for example case-specific information on agents, brokers and other actors that are suspected or known to be involved in the illicit trade;

(c) Afford one another, when appropriate, the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the violations of the treaty.

International assistance

To strengthen capacity and build national capabilities:

(a) Each State party may request the United Nations system, regional organizations, other States parties or other competent intergovernmental or non-governmental institutions for information and assistance to fully implement their obligations;

(b) Consistent with their respective legal and administrative systems, States parties may exchange relevant information and best practices on exports, imports and other international transfers of conventional arms;

(c) States parties may designate national points of contact to facilitate cooperation and information exchange, and liaise on the implementation of the treaty.

Malaysia

[Original: English]
[4 April 2012]

Overview

Malaysia is of the view that the principle guiding the treaty is, first and foremost, a treaty that is practicable, reflecting a balance among the comments and concerns of all States; that its purpose is not to create a new disarmament treaty that bans weapons but rather to regulate the trade of conventional arms and prevent the diversion of legal arms to illegal markets; and that it will be essentially a legal document with a focus on trade and security issues.

Preamble and principles

2. With regard to the preamble and principles of an arms trade treaty, linkages to concepts that are immeasurable and broad in nature, particularly social concepts that are not fully shared or agreed upon are unnecessary in the draft treaty. Inclusions of such concepts would only encourage Member States to add additional concepts or principles of particular concern to them. As stated, an arms trade treaty needs to be objective and balanced. It will be essentially a legal document with a focus on trade and security issues, and hence should not be overly burdened. Such concepts and principles would be better served, in our view, in a separate declaration or resolution which annexes the draft treaty, but not within the treaty itself.

Scope

3. With regard to the scope of an arms trade treaty, especially on transactions and activities to be covered by the treaty, Malaysia is of the view that it could be problematic if the definition of "transfer" included transit and trans-shipment, and the physical movement of equipment into or from a national territory, as suggested in the Chair's non-paper, especially as national territory includes littoral waters and a country's territorial sea. This definition could give rise to complicated and arduous tasks necessary for the monitoring of this particular activity, since it would require resources and capabilities far beyond the means of many States, particularly developing ones. As such, further definition of "transfer" would be required to exclude the notion of "passing through transit". This clarification would apply to other sections of a treaty, including those related to record-keeping, reporting and transparency; enforcement; notification systems; and the transactions and activities to be covered by the treaty.

Criteria and parameters

4. With regard to the sections on criteria and, particularly, the potential consequences of arms transfer on peace and security, Malaysia is of the view that the potential consequences are not exhaustive, and are subjective in nature. Such a listing need not be included in a potential treaty. Once again, the principle of having an arms trade treaty that is objective and balanced should focus on the trade and security aspects of such a document. Such listings could also be included in a discussion on a separate declaration or resolution which annexes the draft treaty, but not within the treaty itself.

Implementation

5. With regard to implementation, particularly on the obligations of States parties, a phrasing such as "implementation in accordance with the Treaty is not discriminatory, subjective in nature, nor could represent, inter alia, political abuse" is a phrasing which in itself is subjective, and hence unnecessary. The more straightforward phrasing of "shall assign the highest priority to ensuring the implementation of this Treaty" is better and goes straight to the point in terms of guaranteeing the positive intentions of a State party. Additionally, the sharing of information should be on a voluntary basis, recognizing confidentiality and the strategic interests of States. This principle would also apply to other relevant sections of an arms trade treaty.

6. An arms trade treaty should not make references to issues dealt with by separate legal regimes and laws or other international mechanisms; for example, issues such as corruption, money-laundering or mutual legal assistance. We must not tack on auxiliary issues covered elsewhere, and we must continue to view the treaty through a trade and security perspective only. Additionally, the topic of victim assistance is a matter that would require much further deliberation.

7. With regard to the establishment of an implementation support unit to support a potential treaty, Malaysia is agreeable to this idea but emphasizes that its role should be solely for administrative and logistical purposes, and not to verify adherence to the treaty. While the funding for the implementation support unit can be discussed at a later stage, it should be shared by all States parties to the treaty,

based on the United Nations scale of assessments and pro-rated to take into account differences in membership between the treaty and the United Nations.

International cooperation and assistance

8. As outlined in paragraph 6, an arms trade treaty should not make references to issues dealt with by separate legal regimes and law.

9. As stipulated in paragraph 5, information-sharing should recognize confidentiality and strategic interests of States.

Final provisions

10. With regard to the numbers of States parties required for the treaty to come into force, Malaysia is of the view that the criteria should include an examination and comparison of other disarmament treaties — that is, on the basis of either a particular number of States which have ratified the treaty or a combination of a number and different categories of States. The latter, however, has to be examined cautiously to avoid any subjective interpretations of definitions of what is or what is not an importing or exporting State.

Transactions and activities to be covered by the treaty

11. The thrust of paragraph 3 also applies to this topic.

Mauritania (on behalf of the League of Arab States)

[Original: English]
[30 March 2012]

1. Principles

(a) Fully complying with the letter and spirit of all principles enshrined in the Charter of the United Nations, including the legitimate right of States to acquire conventional weapons for legitimate self-defence and their right to produce, export, import and transfer conventional arms, their equal sovereign rights, the right to territorial integrity and political independence, the right of self-determination of all peoples, as well as all other principles of the Charter, including those prohibiting the use of force and threat of use of force and those promoting the pacific settlement of disputes;

(b) Recognizing the sovereign right of States to regulate transfers of arms within their territories;

(c) The principles, objectives and purposes should be reflected in the different provisions of the treaty;

(d) Importing States have the right to determine their conventional arms mix, according to their national defence strategies;

(e) Efforts to consider an arms trade treaty should not represent, in any possible way, a shift from the unquestioned priority of nuclear disarmament, as agreed by consensus at the first special session of the General Assembly devoted to

disarmament in 1978. This element has to be clearly mentioned in the text of any potential treaty;

(f) The treaty has to clearly list the rights and obligations of its parties in a balanced manner that respects sovereign equality under the Charter. There should be little room for interpretation of commitments under the treaty or in the manner in which it is implemented by major arms exporters.

2. Goals and objectives of the treaty

(i) The key objectives of an arms trade treaty should be to promote the principles and objectives of the Charter and to prevent, combat and eradicate the illicit transfer, illicit production and illicit brokering of conventional arms;

(ii) The proposed treaty should not interfere with already existing systems in the framework of the United Nations with regard to conventional weapons, and should not undermine their principle foundations;

(iii) Production of conventional arms must not exacerbate an imbalance between major arms producers and arms-importing States;

(iv) The potential treaty must have clear and feasible incentives for arms-importing States, including an extensive and international cooperation framework which goes beyond assistance in implementing the treaty.

3. Scope

(a) Any potential treaty must take into account the elements of production and stockpiles, along with export, import and transfer;

(b) In principle, emphasis should be placed on the elements of relevance and proportionality, along with practical guarantees to relevance and proportionality in implementation;

(c) Any potential treaty must avoid the inclusion of parts and/or components of weapons or weapons systems, or the restriction of dual-use goods and components can result in extensive hurdles to civil industry and contradict with the industrial and developmental aims of many developing States.

4. Parameters and criteria

(a) The treaty has to provide for collectively agreed, applicable, unambiguous, detailed, measurable and relevant criteria that could be enforced by States that export, ship and import conventional weapons;

(b) It is crucial that an arms trade treaty avoid allowing individually assumed, potentially subjective assessments on a national level without relying on multilaterally agreed mechanisms, such as decisions of relevant United Nations agencies or a special body that can be assigned with this collective task under the treaty. No linkages should be made to allow any State to make subjective assessments against another State in fields such as human rights or sustainable development as frameworks and contexts for the fair consideration of such issues within the United Nations differ significantly from the framework of the proposed treaty;

(c) As sources of information relating to the criteria of an arms trade treaty, a State party shall take into account the nature of the arms to be transferred, the use of the weapon by the end user and assessments made and information provided formally by the State party's authorities and agencies, including its diplomatic and consular missions, in a documented and well-certified manner.

5. Implementation

(a) The potential treaty will require the setting up of an international secretariat exclusively dedicated to serving, promoting and verifying the effective, fair and accountable implementation of the treaty and its objectives. Such a secretariat can be funded from assessed contributions from its States parties and from resources to be allocated from an agreed percentage of revenues of arms sales by major arms producers;

(b) The secretariat has to have a role in verifying that the implementation of the treaty remains fair and has to record all reported transfers covered by the treaty, including denied transfers;

(c) The implementation mechanism should include not only measures to implement the treaty on a national level but also collective measures, based on equal participation in decision-making by all parties, on the international level to ensure its fair and accountable application;

(d) While any comprehensive reporting system established under the potential treaty should be voluntary, any reporting by major arms exporters must allow for objective questioning regarding grounds for any denials of export or transfer. Such a reporting system should also cover denied exports;

(e) Due regard should be given to the limited capabilities of developing and least developed States, avoiding any unnecessary burden.

6. International cooperation and assistance

(i) Provisions for international assistance must be binding and reflect an obligation to provide proportional international assistance by major arms exporters commensurate in size with the burden that will be borne by developing countries and least developed countries in the implementation of their treaty obligations;

(ii) A concrete mechanism must be embedded in any potential treaty that ensures the provision of required assistance, including concrete indicators to monitor the compliance of States parties in implementing assistance obligations;

(iii) The provision of international assistance should be in full accordance with the principle of national ownership, starting with the request-of-assistance phase and including in determining the assistance and monitoring of its implementation;

(iv) Any implementation mechanism should promote technology transfer and manufacture under foreign licence among the incentives for universal membership and the promotion of the advantages of treaty adherence by arms-importing States;

(v) The treaty system should be balanced and thus aim at making sure that a potential importing State, once it has complied with all the agreed parameters, will be certain to obtain its required transfers.

7. **Final provisions**

(i) The treaty must be universal in reflecting equally the concerns of the international community as a whole and in creating a process of entry into force that ensures that the list of ratifying States is one that adequately addresses qualitative and quantitative aspects;

(ii) The review process must be based on consensus and be held at five-year intervals.

Mexico

[Original: Spanish]
[30 March 2012]

An arms trade treaty must be adopted in 2012 in order to control the irresponsible trade in conventional arms. This trade has threatened peace and security at the national, regional and international levels and has sustained activities that violate international law, including transnational organized crime, terrorism and violations of international humanitarian law and international human rights law.

In order to be effective, such an instrument must prevent and combat the diversion of arms to the illicit market and to unauthorized end users effectively.

The treaty's purpose must be to establish regulations on arms trading based on the shared responsibility of all parties involved in the life cycle of a weapon, from manufacture to destruction, using objective, non-discriminatory and transparent criteria.

Mexico has firmly supported the negotiations on an arms trade treaty and has decided to make the control of arms flows a major focus of its foreign policy.

International cooperation and assistance

The establishment of rapid, flexible assistance mechanisms for responding to States' needs and strengthening their national capacity will be one of the key requirements for effectively implementing the treaty. To that end, it is essential that the treaty provide for an inter-State consultation mechanism and that close links with the industry (manufacturers) and end users are expanded and developed in order to avoid the risk of arms being diverted from the legal to the illicit market.

Cooperation must not be limited to financial assistance; it must include information exchange and dialogue between importers and exporters with a view to taking the country where the arms are received into account in risk analyses.

Scope of the treaty

Arms

In order for the arms trade treaty to be an effective instrument, it will be important to go beyond an approach based on lists of arms and to focus instead on reaching agreement on a definition that covers all conventional arms, their parts and components, high- and low-calibre ammunition and technology related to the production, development or maintenance of arms and ammunition.

The definition of conventional arms to be included in the treaty must be flexible and adaptable to future technological developments in the arms industry. Mexico believes that a static treaty that establishes fixed lists of arms would be significantly limited in terms of its relevance and validity.

The treaty, being regulatory rather than prohibitive, must not authorize exceptions for any kind of conventional arm, including sporting or hunting weapons, which can cause the same harm as conventional arms since they can be used to: (i) facilitate organized crime activities, (ii) threaten State stability and security and (iii) support terrorist activities.

Activities to be regulated

The treaty must regulate all physical transfers of arms, components, technology and ammunition as a separate issue from the transfer of ownership.

Arms and ammunition should be controlled throughout their life cycle, from production to destruction. It is important that regulations on arms trading should consider both the end user and the probable use of the arms.

The transport of transferred weapons must be regulated in order to prevent their diversion, and systems should be established to alert transit countries so that they can take steps to prevent the diversion of arms.

Import control mechanisms must be established based on the same criteria as for exports.

Criteria

Although the decision to approve the transfer of arms is a sovereign decision of each Member State, Mexico will seek to ensure that the treaty sets compulsory, high standards to prevent trade in arms when there is a substantial risk that they will be used to commit or facilitate grave violations of international humanitarian law or grave and systematic violations of international human rights law.

Marking and tracing

It is important that the treaty should include a provision indicating that all arms covered by the treaty, as well as their parts and components, must be marked during the production process and that databases of marking information must be kept to facilitate the efficient tracing of arms. These measures would significantly improve the control of arms over their entire life cycle.

The treaty must oblige States to take all necessary measures to ensure the secure import, export and transit of arms within their territory in order to prevent them from being diverted.

In that connection, in order to prevent the diversion of arms, the treaty must provide that persons involved in their import, export and transit must be registered with national Governments in order to purchase and sell them and must establish that Member States may not trade with any unregistered broker.

Implementation and monitoring and enforcement mechanism

It is critical that the treaty should be backed by a support entity to follow up and verify compliance with the obligations set out in the instrument.

This entity must be funded by contributions from States parties to the treaty and must have sufficient budgetary and human resources to provide assistance to States in their implementation of the treaty at the national level and to function as a mechanism for verifying compliance.

Transparency measures

Provision must be made in the treaty's implementation for transparent and effective transfer follow-up mechanisms in order to monitor the entire life cycle of arms and to identify the best formats for national reporting.

States must submit annual national reports on direct and indirect transfers of arms, parts and components, ammunition and technology.

Arms-exporting countries must notify the import control offices of the arms destination countries of licences granted and permits denied, as a confidence-building measure and in order to prevent the diversion of arms.

Decision-making at the 2012 Conference

Mexico has advocated the negotiation of an arms trade treaty that will enable Member States to effectively control the trade in conventional arms while ensuring that this important process is not overtaken by consensus-seeking on minimum standards or by the paralysis that has characterized other disarmament initiatives.

To this end, Mexico will make every effort to arrive at general and, if possible, universal agreements but if no such agreements are reached, the alternatives established in the rules of procedure of the General Assembly could be considered. Mexico cannot waive its voting rights within the mechanisms established by the General Assembly of the United Nations.

Netherlands

[Original: English]
[30 March 2012]

The Netherlands is a strong proponent of the adoption of a meaningful, legally binding arms trade treaty in July 2012. This treaty should contain the highest international standards for the transfers of conventional arms, and should oblige States to put in place national regulations in order to assess transfers against agreed parameters. A strong and robust treaty will prevent irresponsible and illegal arms transfers, and thus contribute to international security and stability, promote transparency and accountability and combat corruption at the national level in transfers of conventional arms and related material. Provisions on transparency will help to encourage States to abide by the rules set by the treaty. The Chair's non-paper of 14 July 2011 offers a good basis for the negotiations at the diplomatic conference in July 2012.

As to the main elements of an arms trade treaty, the Netherlands fully supports the reply by the European Union to request ODA/35-2012/ATT. In addition to this, the Netherlands would like to elaborate on two specific elements of the treaty.

The Netherlands is of the opinion that the scope of the treaty should be as comprehensive as possible. All conventional weapons, including tear gas and other crowd-control weapons, should be covered in the scope of a future arms trade treaty. In addition, conventional dual-use goods for military use should be included in the scope.

With regard to the parameters, the Netherlands envisages the following procedure. In cases where an arms export would not comply with relevant legally binding arms embargoes, or when there is a clear risk that transferred arms could contribute to violations of human rights and international humanitarian law or internal conflicts, States parties shall deny such exports. In other cases, exporting States shall take their decision to authorize or deny an arms export on the basis of an assessment undertaken by them in accordance with other criteria established in the treaty. In the view of the Netherlands, these criteria should include: respect of the recipient State for international commitments/obligations, in particular with regard to terrorism and organized crime; consideration of the risk of adverse effect on regional security and stability, including the impact on existing or potential inter-State and intra-State conflicts; consideration of the risk of diversion to unintended and unauthorized end users or to the illicit market, including risk of re-export that is not authorized by the country of origin; and consideration of the impact on the sustainable economic and social development of the receiving country.

New Zealand

[Original: English]
[30 March 2012]

I. Preamble

In setting the context for the adoption of the arms trade treaty, the preamble should reflect the negative consequences for human security and development in the absence of commonly agreed international standards for the transfer of conventional arms. It must give emphasis to the strong humanitarian motivation and focus which underlie the treaty.

II. Principles

The treaty's framing and subsequent implementation must above all be guided by the purposes and principles enshrined in the Charter of the United Nations and by the need for States to respect their obligations under international law, including international human rights law, international humanitarian law and relevant Security Council resolutions.

There are several broad groupings or clusters of fundamental principles relevant to an arms trade treaty. One cluster would reflect general principles of international law, including the right to individual or collective self-defence in

accordance with Article 51 of the Charter, and the need to respect international law, including human rights law and international humanitarian law.

A second cluster would record the legitimate role of the arms trade, including the right of States to manufacture as well as import, export and carry out other forms of transfer of conventional weapons for their self-defence and security needs and in order to participate in peacekeeping operations, as well as the sovereign right of States to regulate internal transfers and the ownership and possession of arms within their territories.

III. Goals and objectives

If it is decided to have a separate stand-alone section outlining the treaty's purposes, it will be important that its text be simple and clear and that it neither duplicates nor cuts across the language of other sections.

New Zealand supports the treaty's objective of establishing the highest possible common international standards for the import, export and other forms of transfer of conventional arms. The "floor" set by these standards must be sufficiently high for it to be realistic to expect the treaty to contribute meaningfully to international and regional peace, security and stability.

Only if the treaty sets high standards will it be able to live up to its objective of preventing and eradicating the illicit transfer, production and brokering of conventional arms and their diversion into illicit markets.

The treaty should also aim to promote transparency and greater responsibility in arms transfers.

IV. Scope

New Zealand supports a broad, comprehensive coverage of conventional weapons within the treaty's scope. Anything less will undermine the attainment of its objective.

The use of a listing approach can be helpful in meeting the fundamental requirement that it must be clear what items are included in and what items are excluded from the treaty. Anything else would hamper implementation by national authorities, and could lay the basis for differential implementation as between States parties. If the list of covered items is set out in an annex, this would facilitate updating of the treaty in order to keep pace with technological developments.

An alternative, simpler approach would be to include within the treaty all conventional arms except those specifically excluded.

V. Criteria and parameters

The treaty should consolidate in a single instrument those circumstances in which a State is already obligated not to transfer conventional arms internationally.

Pre-eminently, these include all instances when a transfer might violate the Charter or resolutions relating to Chapter VII. Similarly, States must not authorize a transfer if the arms might be used in violation of the provisions of international humanitarian law or where they might be used in violation of international human rights law.

An arms trade treaty also needs to codify the other circumstances in which States, pursuant to their case-by-case consideration of transfer applications, should decline transfers. These include situations in which the arms being traded:

Might be likely to provoke or exacerbate internal or regional conflict;

Might be likely to lead to the displacement of people, or contribute to economic or social destabilization;

Might be used by criminal groups, or where there is a risk they could ultimately end up in the hands of terrorists.

There are a range of other factors which States should take into account in deciding whether to authorize a transfer; for instance, whether there is a significant risk that the arms could be diverted or sold to an end user other than that stated in the transfer application form.

VI. Implementation

The treaty will need to include standard provisions requiring all States parties to take the necessary legislative and administrative measures to give effect to its obligations, including the imposition of appropriate penalties for non-compliance. This must include the establishment of national transfer authorization procedures along with elements such as national control lists, contact points and record-keeping, as well as arrangements, such as end-user certificates, to guard against the diversion of authorized transfers.

Reporting will be key to successful implementation. In order to ensure that reporting obligations are no more onerous on small States than absolutely necessary, New Zealand supports the separation of reporting on domestic implementation measures from reporting on actual transfers because the latter needs to be done much more frequently. After an initial report on national implementation measures, we suggest that updates or changes could be provided only in advance of treaty review conferences. In contrast, reporting on States' decisions regarding transfers of arms covered by the treaty should be done annually and should cover all international transfers that took place during the preceding year.

The treaty should provide for simplified reporting procedures, including, for example, regional reports for those States which do not transfer significant quantities of arms.

Annual meetings of States parties may be useful in providing an opportunity for States to follow up on the information contained in reports on arms transfers and to engage on their experiences with treaty implementation. States will continue, no doubt, to use bilateral channels to discuss arms transfer decisions, but annual meetings of States parties may be able to institute peer engagement as well.

VII. International cooperation and assistance

International assistance and cooperation will be fundamental to the effective implementation of the treaty. In particular, the treaty will need to include provisions for strengthening capacity and building national capabilities.

The establishment of an implementation support unit would be an effective means to assist States parties in meeting their obligations and to assist with capacity-building.

VIII. Final provisions

New Zealand acknowledges that the option of entering reservations to the treaty could facilitate its more widespread ratification. We suggest that in order for there to be no dispute regarding which reservations would be incompatible with the treaty's object and purpose, and therefore not permissible in terms of the Vienna Convention on the Law of Treaties, the treaty could explicitly identify which provisions could not have reservations entered against them.

It is essential that the treaty not erect any barrier to its entry into force other than a simple numerical requirement. The treaty should enter into force with the minimum number of States parties required to ensure a functioning regime; an appropriate threshold might be 30 States.

IX. Transactions and activities to be covered by the treaty

New Zealand supports a comprehensive approach towards the transactions to be included within the scope of the treaty.

The term "transfer", which has been used as an umbrella term for a range of activities at the heart of an arms trade treaty, should be defined to require a movement of arms across an international boundary combined with a change in their title or control.

Persons travelling outside their home country with their weapons for recreational purposes, for example to take part in shooting competitions or for a hunting expedition, would not be affected by the terms of the treaty because, though they will cross international boundaries with the weapons, they would not be giving up title or control.

If an activity is within the definition of a "transfer" and relates to arms covered by the treaty, it should come within its terms regardless of the identities of the parties to the transfer, for example whether they are Governments or their agents, commercial entities or individuals.

In addition to applying to the import, export, re-export, lease, loan and gifting of conventional arms, all defined in terms of a "transfer" as above, the treaty should cover other activities such as trans-shipment, transit, brokering and manufacture under foreign licence.

The monitoring or control requirements applicable to these various activities need not in all instances be the same: for instance, the authorization, record-keeping and reporting requirements, and the responsibility to ensure the non-diversion of exported arms, should not be the same for transited States as for exporting States.

X. Additional views

New Zealand wishes to reiterate its very strong support for a satisfactory outcome to the diplomatic conference to be held in July 2012 and for the adoption of a strong comprehensive treaty to govern the international trade in conventional weapons. We are confident that we are very well prepared to begin the formal

negotiations in July on the basis of the Chair's non-paper of 14 July 2011, written by Ambassador Roberto Garcia Moritan.

Nigeria

[Original: English]
[30 March 2012]

The Permanent Mission of the Federal Republic of Nigeria to the United Nations presents its compliments to the Conventional Arms Branch of the United Nations Office for Disarmament Affairs and, pursuant to the fourth session of the Preparatory Committee Meeting on the Arms Trade Treaty which was held from 13 to 17 February 2012, has the honour to inform the Office of Nigeria's support for the non-paper submitted by the Chair as a basis for further discussions.

Additional views on the Chair's non-paper as well as other suggestions by Nigeria on the way forward, will be made known at the conference. The Permanent Mission of Nigeria wishes to assure Ambassador Moritan of Nigeria's support for the treaty process, as well as the overall objectives, as Member States of the United Nations convene in July for the diplomatic conference.

Norway

[Original: English]
[29 March 2012]

I. Preamble

The preamble should focus on the humanitarian aims of an arms trade treaty and its potential for reducing or preventing human suffering resulting from illegal and illicit, as well as irresponsible, arms trade.

The preamble should take note of the need for effective regulation of all international arms trade in order to prevent arms trade that causes human suffering and armed violence, including gender-based violence, displacement of people, organized crime, terrorism and violations of international humanitarian law and human rights law, as well as arms trade that undermines safety, poverty reduction and socioeconomic development.

The term "armed violence" should appear in the preamble, because the detrimental humanitarian effects of armed violence seems to be one of the key justifications, and historic reasons, for negotiating an arms trade treaty.

Moreover, the preamble should recognize victims of armed violence, including their rights to adequate care and rehabilitation and their social and economic inclusion.

It is important to keep in the preamble a reference to the right of States to adopt more restrictive measures for exporting arms than those provided in the treaty.

II. Principles

It appears unnecessary and unfortunate to reaffirm key provisions of the Charter of the United Nations. The Charter applies irrespective of the outcome of the treaty negotiations, and repeating key provisions could create uncertainty about this fact. In our view, references to the Charter should start with the words "guided by" or "recalling".

The section on principles should not acknowledge the right of all States to acquire or import arms. Such a right would implicitly generate an obligation for others to supply arms.

III. Goals and objectives

The overall goal of the treaty should be, through responsible regulation of all international arms trade, to prevent illicit or irresponsible arms trade that causes human suffering and armed violence, including violations of international humanitarian law and human rights law.

Norway is of the opinion that the treaty cannot reasonably be limited to the "illicit" transfer of, trade of or similar activity relating to arms. In our understanding, "illicit" can be understood to refer to activities that are already prohibited. The treaty must explicitly aim at preventing not only illicit but also irresponsible arms trade leading to human suffering and armed violence.

This section could be incorporated into the preamble and/or the section on principles.

IV. Scope

The treaty should apply to all conventional arms including, inter alia, small arms and light weapons, ammunition, components, arms technology and services.

Norway is of the opinion that ammunition must be within the scope of the treaty. When it comes to licensing and the assessment of whether an export application should be granted, ammunition cannot be treated any differently than the weapon for which it is intended.

Any exclusion of items from the scope should be linked to the overall goal of the treaty and be based on humanitarian arguments.

V. Criteria and parameters

Obligations of the exporters should include establishing, implementing and enforcing an effective export control system and establishing a national licensing authority tasked with assessing applications for arms export on the basis of, inter alia, the criteria and requirements specified in the treaty.

Obligations of the importers should include providing documentation to the exporting State on end use including, potentially, end-use assurances; taking measures to prevent the diversion of arms import; and enacting national legislation with a view to implementing the requirements laid down in the treaty.

The following criteria should determine the granting of licence applications, and the treaty should contain an obligation not to transfer arms if any of them are fulfilled:

Whether the specific transfer, including potential re-export, is likely to contribute to, or be used for, serious violations of international humanitarian or human rights law, or to fuel conflict or otherwise seriously undermine socioeconomic development;

The risk of diversion, whereby conventional arms and in particular small arms and ammunition may fall into the hands of non-State armed groups or criminals, causing the risk of terrorist activities and armed violence. In this regard, it is important to assess the importing State's capability and determination to exert effective control over the transfers, including assessing the risk of corruption as well as the stockpile/storage security and physical protection of arms and ammunition.

VI. Implementation

Norway is in favour of provisions obliging States parties to take the necessary legislative, administrative and other steps to implement the provisions of the treaty. The following points are key to facilitate effective implementation:

No obligation to export arms: exporting States may adopt more restrictive measures than those provided in the treaty.

End-user certificates: the treaty should specify requirements for end-user and end-use documentation by importing States for all activities and objects covered by the treaty.

Marking and traceability: the treaty should require standards for the marking of objects falling within its scope, subject to the varying characteristics of these objects. Obligations regarding marking should be reflected in the obligations concerning record-keeping, and should build on relevant best practices.

Reporting obligations: the following requirements and obligations are key in the context of transparency measures and reporting obligations:

(1) Requirements and standards for record-keeping on the export and import of arms

(2) Reporting obligations on export

(3) Reporting obligations on import

(4) Reporting on national implementation measures and compliance

There should be obligations on States to keep records of the export as well as the import of all objects falling within the scope of the treaty. Requirements for such national record-keeping might build on experience from similar instruments and frameworks.

It should be considered to what extent all or parts of the reporting should be publicly available. Reporting obligations may vary according to the different categories of items and pertain to a number of alternative variables, such as items, quantities, sums, licences granted, licences denied or other relevant data. The exact character of the information to be recorded and reported is likely to influence the extent of the public transparency of such reporting.

One key aim of the treaty should be to contribute to regional and international security and stability, also by promoting transparency and greater responsibility in transfers of conventional arms, ammunition and military equipment. As such,

national annual reports will contribute to transparency in the global trade of conventional arms and could complement the United Nations Register of Conventional Arms and the United Nations database on national legislation on the transfer of arms, military equipment and dual-use goods and technology.

VII. International cooperation and assistance

International cooperation and assistance should be an integrated part of an arms trade treaty in order to enhance the implementation of the treaty's obligations and goals.

States in a position to do so should provide technical, material and financial assistance in order to build and strengthen national implementation measures, including safeguards against diversion, including securing stockpile/storage facilities for arms and ammunition.

States parties should be able to participate in technical cooperation and exchange of scientific and technological information aimed at enhancing and facilitating the implementation of the treaty.

Victim assistance

As armed violence constitutes one of the main obstacles to achieving the Millennium Development Goals, the treaty should contain language on victim assistance; the treaty should ensure focus on and recognition of the challenges faced by victims of armed violence and their right to adequate care, rehabilitation and social and economic inclusion.

Provisions on victim assistance do not require a link between the arms producer or exporter State from where the relevant weapon originated and the potential victim. Other international instruments containing provisions on victim assistance do not require any such links; the provisions are intended to ensure focus on the rights of victims in accordance with established and applicable human rights law.

The treaty should thus also contain provisions on the collection of data concerning victims as well as on preventive measures. We also suggest provisions on utilizing reporting mechanisms in order to ensure measuring and monitoring pertaining to victims, as well as provisions on preventive measures and on the public availability of such data.

VIII. Final provisions

Norway does not support a provision demanding a large number or a qualified selection of States parties before entry into force of the treaty. Considering the humanitarian aspects of regulating arms trade, even a low number of States parties could make a difference.

Norway does not support negotiations as a dispute-settlement regime concerning transfer denials. Such a provision implies an obligation to export arms, or a right to import them.

IX. Transactions and activities to be covered by the treaty

(This heading should perhaps come before final provisions.)

In the Chair's text, there is a certain amount of ambiguity with regard to terminology. In particular, it appears that the term "transfer" has been used in several different meanings.

Norway is in favour of using the term "transfer" as the overall term covering the core elements of international trade: movement across borders of and transfer of title to and control over goods, technology and services. The two main categories of activities under transfer, export and import, would include a range of subactivities such as transit, re-export, trans-shipment, technology transfer, brokering, loans, leases, gifts, technical assistance and related services.

Pakistan

[Original: English]
[30 March 2012]

The report of the fourth Preparatory Committee Meeting on the Arms Trade Treaty (A/CONF.217/1) notes that "none of the elements within the Chair's non-paper have been agreed and not all views are reflected therein".

Pakistan had expressed its views and made specific proposals during the course of discussions on an arms trade treaty. Because they did not find reflection in the Chair's non-paper, some of them are enumerated below.

General

The proposal for an arms trade treaty should be viewed in a historical and political context.

The United Nations has been seized of the issue of regulating conventional arms for several decades. Efforts have also been made in Europe, Asia and elsewhere before, between and after the First and Second World Wars.

During the cold war, global military expenditures rose to more than $1,100 billion. There was a brief decline after the end of the cold war, but in the past few years global military spending has again exceeded $1,000 billion.

International trade in armaments has also significantly increased in recent years. The large part of this trade, an estimated 66 per cent, occurs between the major arms suppliers, which are all developed countries that are members of the Organization for Economic Cooperation and Development. Moreover, major arms production and transfers also take place within and among these developed countries.

In 1996, the United Nations Disarmament Commission, after detailed deliberations, adopted by consensus a set of guidelines for international arms transfers covering the scope, principles, ways and institutional arrangements. The group of governmental experts appointed by the Secretary-General in 2008 to examine the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms noted in its report the complexity of the

issue and recommended further consideration of efforts on a step-by-step basis. Although the group reached a consensus report, it could not agree on the feasibility, scope, parameters and common standards for regulating conventional arms.

Given the intricate nature of these issues, international as well as regional efforts to regulate trade in and control of arms have so far been largely unsuccessful. There could be several reasons for these failures. These include, inter alia, a partial approach, for example, an exclusive focus on managing the manifestations of the adverse consequences arising from the illicit trade in arms, separating the motivations for arms production and development from the controls on their trade and transfer and a lack of full implementation of existing measures and commitments to regulate arms.

The proceedings of the Preparatory Committee for the United Nations Conference on the Arms Trade Treaty have highlighted the continuing complexities surrounding the efforts to regulate conventional arms. The discussions also underscored the need for further work to evolve consensus on the feasibility, scope and criteria of the proposed arms trade treaty.

Specific areas

A gradual and step-by-step process is needed. As a first step, clarity is required on the types of weapons that need to be covered under the proposed treaty. Similarly, it is essential to determine which category of arms and its diversion from licit to illicit modes accentuates organized crime, terrorist acts, drug trafficking and armed violence.

The trade in seven categories covered by the United Nations Register for Conventional Arms involves State-to-State transfers and is subject to established end-user procedures, precluding the possibility of their diversion to illegal channels. It is the small arms and light weapons, particularly their illicit trafficking and proliferation, that propels crime, violence and terrorist acts. The proceedings of the Preparatory Committee have shown that there is no consensus among Member States on the types of weapons to be included in the scope of the suggested treaty.

Any treaty or agreement for the regulation of conventional weapons would need to address both the production of and trade in armaments. Any treaty which seeks to address the transfer of arms but not their development, production and deployment will be internationally inequitable against countries which do not themselves produce conventional armaments. It will, therefore, prove difficult to conclude or implement.

In 1996, the United Nations Disarmament Commission unanimously adopted guidelines on international arms transfers. Moreover, the establishment in 2001 of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms provide agreed frameworks to address the myriad problems associated with these weapons. The General Assembly has, over the past two decades, called for conventional arms control at the regional and subregional levels. Taken together, these measures represent international agreement on the scope, elements and modalities to regulate conventional arms. There is therefore a need to build on this agreed framework and incorporate provisions from these instruments into the proposed treaty.

The following additional textual proposals are presented for incorporation into the background document:

I. Preamble

Bearing in mind the final document of the first special session of the General Assembly and its provisions relating to conventional arms,

Recalling the adoption of United Nations Disarmament Commission guidelines on international arms transfers by consensus in 1996 and recognizing their relevance to this treaty,

Recognizing the contribution made by the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, as well as the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime,

Bearing in mind the General Assembly resolutions on conventional arms control at the regional and subregional levels,

Mindful of the need to prevent the destabilizing effects of excessive and uncontrolled conventional arms and stockpiles on regional peace, security and stability and to prevent the diversion of conventional arms from the legal to the illicit market,

Recognizing the need to prevent, combat and eradicate the illicit trade in and trafficking of conventional arms and the responsibility of all States to effectively regulate and control the import, export, development, production and transfer of conventional arms,

Noting that existing national, regional and subregional best practices on the import, export and transfer of conventional arms can play an important role in furthering the goals and objectives of the treaty.

II. Principles

Recognizing the principle of equal rights and self-determination of peoples, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

Recognizing also that regulation of conventional arms contributes to the maintenance of international and regional peace, security and stability,

Reiterating the need for the balanced reduction of armed forces and conventional armaments based on the principle of undiminished security of all States, taking into account the need for all States to protect their security,

Underlining that international arms transfers shall not be used as a means to interfere or intervene in the internal affairs of other States,

Reaffirming the special responsibility of States with the largest military arsenals to pursue the process of conventional arms reductions, consistent with the principle of undiminished security,

Stressing the singular duty of major arms-producing States to exercise adequate restraints in the manufacturing of conventional arms,

Recalling the commitment of all States to the established principles of political independence, sovereign equality and territorial integrity of all States,

Recognizing the need for evolving commonly agreed international standards for the import, export, development, production and transfer of conventional arms and their diversion to the illicit market.

III. Objectives

The treaty will seek to:

Prevent, combat and eradicate the illicit trade and trafficking in conventional arms, particularly small arms and light weapons,

Advance the international arms transfers guidelines as adopted by the United Nations Disarmament Commission in 1996,

Promote the principles and purposes of the Charter including, inter alia, the prevention of war, the promotion of international and regional peace and security, the pacific settlement of disputes and the regulations of armaments,

Contribute to the shared goals of conventional arms control and disarmament, including by promoting restraints on the development and production of such arms,

Ensure that no individual State or group of States shall take advantage of this treaty to obtain undue commercial, political or strategic advantages over the others.

IV. Scope

For the purpose of this treaty, conventional arms shall include small arms and light weapons, excluding ammunition, munitions, explosives, technology, equipment, parts and components of these arms as well as their trans-shipment.

V. Criteria

States parties shall faithfully adhere to the provisions of international arms transfers guidelines adopted by the United Nations Disarmament Commission,

International arms transfers shall not be used as a means to interfere in the internal affairs of other States,

States parties shall establish and maintain an effective system of export and import licences for international arms transfers with requirements for full supporting documentation. The exporting State shall obtain an import certificate from the receiving State covering the exported arms. The receiving State shall ensure that imported arms are covered by a certified licence of the authorities in the supplying State.

A State party shall not authorize a transfer of conventional arms if there is a substantial risk that those conventional arms would:

Be used in a manner that would seriously undermine international and regional peace and security or provoke, prolong or aggravate regional, subregional or international instability;

Introduce destabilizing military capabilities, in particular new ones, in a region or subregion;

Disregard the balance of forces or military capabilities in the region, their relative expenditures on defence or the potential to significantly enhance the effectiveness of existing capabilities or improve force projection;

VI and VII. Implementation and final provisions

Discussion on implementation and final provisions, in the absence of consensus and clarity on the nature and scope of the basic elements of treaty, may be premature. Proposals, if required, would be made during the conference.

Poland

[Original: English]
[4 April 2012]

I. Preamble

The preamble part should identify the main principles underpinning the treaty, in particular that the arms trade treaty should aim to prevent conventional weapons from contributing to armed conflicts or being used in acts of terrorism or violations of human rights and international humanitarian law.

It should be reaffirmed that it is the State's sole responsibility to decide on the export of conventional arms.

The preamble might also make a specific reference to Article 51 of the Charter of the United Nations pertaining to the right of States to self-defence. It might also confirm the right of States to produce and acquire weapons.

A specific provision making clear that the treaty is not to regulate domestic transfers or interfere with gun-ownership rights should also be included.

It is strongly suggested that the preamble contain a reference to the process leading to the arms trade treaty that underlines the incremental role of non-governmental organizations in that process.

II. Principles

The treaty should invoke the principles of the Charter of the United Nations as well as international humanitarian law and human rights. While recognizing the right of States to self-defence, in accordance with Article 51 of the Charter, it should also be recalled that States are obliged to comply with internationally legally binding obligations like arms embargoes and sanctions introduced by the resolutions of the Security Council.

III. Goals and objectives

Goals and objectives of the treaty should be defined with reference to general principles contained in the preamble part. The main goal of the treaty is to regulate legal international transfers of conventional weapons and munitions through administrative measures such as export control systems. The treaty should also aim

to promote accountability and transparency in the arms trade. The applications of these measures will allow for limiting the potential risk of illicit transfers.

IV. Scope

The scope of the treaty should embrace all types of conventional weapons and materials, including small arms and light weapons and ammunition. Sporting and hunting weapons might but do not necessarily need to be included. We understand that the scope of the treaty also includes also activities to be controlled, which are specified in section IX.

V. Criteria and parameters

Poland proposes that the following criteria be included in the text of the future treaty:

Respect for the principles and purposes of the Charter of the United Nations;

Compliance with United Nations Security Council resolutions on arms embargoes and sanctions;

Compliance with other legally binding arms embargoes or sanctions adopted by regional or subregional organizations;

Respect for international humanitarian law and human rights;

Risk of adverse effects of transfer on regional security and stability, including impact on existing or potential interstate and intra-State conflicts;

Impact of transfer on the sustainable economic and social development;

Risk of the diversion of transferred weapons to unintended end users or to the illicit market, including risk of unauthorized re-export;

Compliance of the State concerned by the transfer with international obligations and commitments, in particular with regard to terrorism, organized crime, and non-use of force.

VI. Implementation

An arms trade treaty should require the States parties to establish and operate administrative measures to control respective activities.

VII. International cooperation and assistance

International assistance should be provided upon request. This should refer primarily to technical assistance, which can be supported by an element of financing.

Implementation might be enhanced through international cooperation, including the exchange of best practices.

A minimal international structure within the United Nations should be designed to keep records and support the States parties in the implementation of the treaty.

It is advisable that the treaty foresee a review mechanism such as review conferences every five years after entry into force to ensure appropriate

implementation. Meetings of States parties on an annual or biennial basis may be a forum of consultations and preparatory work in the intersessional period between review conferences.

VIII. Final provisions

This section should contain all provisions relevant for an international treaty, such as ratification, accession, entry into force, amendments, depositary, notifications and corrections.

IX. Transactions and activities to be covered by the treaty

The treaty should control all tangible and intangible forms of conventional weapons transfers, including:

Export and re-export;

Import;

Transit and trans-shipment;

Brokering;

Technical assistance.

X. Additional views

Specific description of military systems to be controlled should be contained in an annex to the treaty.

Manufacturing licences should be covered through a general reference to the manufacturing technology. According to the principle of non-retroactivity of the law, the treaty will apply only to activities undertaken by a State after the treaty enters into force for that State.

Portugal

[Original: English]
[24 April 2012]

Portugal fully supports the negotiation of a strong and robust arms trade treaty in the framework of the United Nations. A legally binding international instrument as such will fill a major gap in international law by setting the highest possible common international standards for the transfer of conventional arms. It will also increase transparency and accountability, contributing to the elimination of the illicit trade of conventional arms.

The Chair's non-paper of 14 July 2011 is a very good basis for starting the negotiations at the diplomatic conference to be held in July 2012.

Portugal is fully aligned with the reply of the European Union to the request of the Secretary-General for views on elements of an arms trade treaty. In addition, Portugal would like to offer some considerations on scope, transactions and activities, implementation mechanisms and international cooperation and assistance:

Scope

Portugal attaches great importance to the definition of the treaty's scope and would like it to be as broad as possible. It should include the regulation of the export and brokering activities of all seven categories of the United Nations Register of Conventional Arms, small arms and light weapons and munitions for all categories, as well as technology, parts and components related to the aforementioned categories.

Categories should include:

I. Battle tanks

II. Armoured combat vehicles, including amphibious vehicles

III. Large-calibre artillery systems

IV. Combat aircraft, including unmanned aerial vehicles

V. Attack helicopters

VI. Warships

VII. Missiles and missile launchers (including man-portable air defence systems)

VIII. Small arms and light weapons (including sport and hunting arms)

IX. Ammunition (used in categories I to VIII)

X. Other specific defence systems not covered by the above categories, such as radar and communications systems

Transactions and Activities

The types of activities to be covered by the scope of the treaty should include:

– Exports, including permanent exports, temporary exports and re-export; imports; transit and trans-shipment; brokering;

Controls should be applicable to the following forms of international trade:

– State-to-State transfers; commercial sales; leases; loans or gifts; technical assistance, including training and intangible transfers of technology;

– Transfers to non-State actors — only to be considered in the case of defence industries under the control of the licensing authorities of the recipient country.

Implementation mechanism

The implementation of the treaty should not become an administrative burden to States. On transparency, there should be a balance between what is considered imperative to report and other less relevant information. A consultation system between States parties should also be foreseen. States should submit reports on aggregate numbers on exports on a regular basis.

International Cooperation and Assistance

Portugal would also like the treaty to be a step forward in international humanitarian law. Therefore, Portugal supports provisions on victim's assistance, successfully linking a control regime to human rights and development.

Republic of Korea

[Original: English]
[16 March 2012]

I. Preface

1. The Republic of Korea believes that the foremost objective of the treaty is to provide for a legally binding instrument to regulate the international transfer of conventional arms, with the aim to prevent illicit transfers, based on the principles universally accepted by the international community.

2. Furthermore, with this end in mind, the Republic of Korea believes that the aim of the diplomatic conference to be held in July 2012 is to create a treaty that is both substantive and effective and that imposes on participating States' responsibilities that are enforceable and effective rather than burdensome and unpractical.

3. In addition, for the sake of universalization and the attainment of the highest possible common international standards, the future treaty should be a treaty that gains the full participation of all major arms producers, exporters and importers.

4. The Republic of Korea reaffirms the importance of the rights and obligations of States under international law, noting that the treaty must guarantee the rights of each State to its national security interests. We believe that the obligations of participating States under the treaty must not work in a manner that undermines the legitimate right of States to their national security.

II. Scope

5. In regard to the scope of the treaty, the Republic of Korea expresses reservations in regard to technology, noting the difficulty of defining and establishing clear standards, as well as complications in its effective control. Thus, the Republic of Korea remains convinced that technology should be excluded from the scope of the treaty.

6. In the same light, the Republic of Korea notes identical complications regarding technology transfer, and thereby is of the view that technology transfer should also be removed.

7. Nonetheless, noting the intricate relationship between technology transfer and manufacture under foreign licence, the Republic of Korea believes that the purpose of the treaty can effectively be reached by regulating manufacture under foreign licence instead. Taking into account the similarity between technology transfer and manufacture under foreign licence, the Republic of Korea points to the fact that while technology transfer is virtually impossible to verify, contract-based manufacture under foreign licence enables effective control by participating States.

In this regard, the Republic of Korea believes that manufacture under foreign licence can successfully replace technology transfer in the scope of the treaty.

III. Implementation

8. The Republic of Korea, committed to the creation of an arms trade treaty that is both effective and implementable, believes that heavy obligations to transiting and trans-shipping countries would hinder the practical implementation of the treaty. It would be an undue burden on participating States to require the full monitoring and control of all transiting and trans-shipping vessels in their areas of jurisdiction. Any attempt at that task would cause only overwhelming administrative complications.

9. On the reporting mechanism, the Republic of Korea supports, in principle, measures that promote transparency and accountability under the treaty with the aim to regulate the international transfer of conventional arms.

10. Nonetheless, the Republic of Korea believes that account needs to be taken for the particular national security concerns of countries in regard to the reporting duty. Thus, the reporting mechanism should be voluntary in nature, and participating States in the diplomatic conference to be held in July should decide only upon the basic elements to be included in every voluntary report. In regard to items other than those basic elements, the Republic of Korea believes that States parties to the treaty should enjoy discretion in the details they report, if they choose to do so.

11. As one of those basic elements, the Republic of Korea suggests the total amount of transfers of conventional arms, expressed in monetary figures. We are concerned that the detailed and categorized reporting of transfers may act to undermine the individual and particular national security interests of each participating State.

Saudi Arabia

[Original: Arabic]
[5 April 2012]

Saudi Arabia welcomes the establishment of unified and effective international standards for regulation of the trade in illicit conventional arms, including the manufacture, transfer, stockpiling, import, export and brokering thereof, with a view to the conclusion of a comprehensive international instrument regulating the trade in these arms. Such a treaty should be enforceable and not susceptible to politicization, and its objectives should be international in scope. It should also be transparent, inclusive and universal and should be concluded on a consensual basis.

Saudi Arabia believes that the proposed instrument must cover the trade in illicit arms and must not be inconsistent with the Charter of the United Nations or with the legitimate right of States to own, manufacture, export, import and transfer conventional arms. Saudi Arabia affirms the right of States to self-defence and the right of self-determination. Principles, objectives and aims should serve as the general framework that guides the formulation of the treaty and its provisions.

In order to strengthen international peace and security, we hope that, rather than restricting the manufacture, transfer, stockpiling, import, export, and brokering

of conventional arms, the proposed treaty will regulate them in order to ensure that their manufacturing is need-based and does not upset the strategic balance between manufacturing and importing States. Saudi Arabia also welcomes the creation of a mechanism to grant States that comply with the proposed treaty incentives beyond the assistance provided for under the treaty.

Saudi Arabia stresses that the categories of weapons, including small arms and light weapons, to be covered by the proposed instrument should be set out in detail and in a manner that cannot be subject to interpretation. The proposed treaty should not cover parts or components of arms systems, ammunition, air defence systems or dual-use goods, nor should it include restrictions on the transfer of arms manufacturing technology.

Saudi Arabia wishes to affirm the importance of elaborating a universal instrument that curbs the illicit trade in conventional arms. At the same time, the proposed treaty on trade in conventional arms should not be used as a pretext to interfere in the internal affairs of other States in order to control their capacity for legitimate self-defence or to politicize or use sustainable development standards to that end. Clear-cut, agreed standards adopted by the United Nations should be relied on in order to avoid subjective interpretations and prevent States that manufacture and export arms from interpreting other States' respect for these standards as they please. Sources of information should be verified and endorsed by Government authorities and diplomatic and consular missions.

Saudi Arabia affirms the importance of the universality of the proposed treaty, which is aimed at restricting the illicit trade in conventional arms on the basis of respect and equality among its parties in accordance with the Charter of the United Nations. The treaty must be formulated clearly and in a manner that does not allow the largest arms exporters to impose their own interpretations on the obligations set out therein. The treaty should be implemented at the national level in accordance with the regulations of each United Nations Member State.

Singapore

[Original: English]
[11 April 2012]

1. Singapore supports the work of the United Nations towards establishing common international standards for the import, export and transfer of conventional arms through an arms trade treaty. In this regard, Singapore welcomes the progress made to date, from the Open-ended Working Group to the Preparatory Committee, and looks forward to participating fully in the negotiations at the United Nations Conference on the Arms Trade Treaty to be held in July 2012.

2. Singapore believes that an arms trade treaty should seek to address the threat posed to international peace and security by the illicit trade in conventional arms. Singapore also agrees with many delegations that have consistently affirmed that an important criterion is the respect for the relevant principles and purposes of the Charter of the United Nations; for instance, that of the inherent right of all States to self-defence in accordance with Article 51. In this regard, Singapore, together with other delegations, reaffirms States' rights to manufacture, import, export, transfer

and retain conventional arms for self-defence purposes and for participation in peace-support operations.

3. To effectively address the threat posed to international peace and security by the illicit trade in conventional arms, it is important that an arms trade treaty be universal, focused, practical and implementable. To ensure that the treaty is universally accepted, Singapore believes it is important that the views of all States be heard and taken into account, in addition to the differing capacities and resources of States that will, in turn, determine their capability to fully implement the provisions of an arms trade treaty. In this regard, Singapore hopes that the scope of an arms trade treaty will take into account the views of all Member States, in particular the smaller States, on issues such as practicality and capacity to implement the terms of the treaty. Singapore also hopes that the criteria of an arms trade treaty will be clear and objective, in order for the treaty to be practical, implementable and thus effective.

4. In addition, an arms trade treaty should not undermine the primary responsibility of States in controlling exports, imports and transfers of conventional arms. States should be able to decide for themselves how to implement their respective national export control systems, based on individual States' international obligations and specific requirements. States should also be encouraged to exchange only relevant information that would aid in the curbing of illicit arms trade, through appropriate channels and on a voluntary basis, and within the ambit of domestic laws. Lastly, an arms trade treaty should be about ways in which States can apply their existing international obligations and not about creating new obligations over and above what States have individually committed to.

5. Singapore is prepared to participate fully in the conference to be held in July 2012, and to contribute to developing an arms trade treaty that is well balanced, non-discriminatory and universally accepted.

Sweden

[Original: English]
[30 March 2012]

Introduction

Sweden aligns itself fully with the submission of the European Union to the compilation of views of Member States. The following additional views are contributed to the compilation on a national basis. Many of the comments refer to the Chair's non-paper, which Sweden feels constitutes a good starting point for the work of the diplomatic conference to be held in July 2012.

I. Preamble

The inclusion here of separate sections on preamble and principles reflect the discussion during the meeting of the Preparatory Committee. It is not clear to us whether there really is a need for two separate sections, especially as there is some overlap in substance between the two in the Chair's non-paper. Sweden would like to see a consolidation of the two sections into one preambular section, and in this context eliminating the overlap.

II. Principles

See preamble above.

III. Goals and objectives

In practical terms, the main operational goals of an arms trade treaty are to create international norms in the area of arms transfer controls and, through obligations in the treaty, encourage as many United Nations Member States as possible to enact and maintain a national system to control the trade in arms and military equipment. The illegal trade in arms that causes so much human suffering and societal disruption around the globe is, by definition, a problem that straddles national boundaries and requires international cooperation to address. An arms trade treaty which fulfils these goals should significantly improve prospects for curbing the illegal trade in arms and enhance responsibility in the legal arms trade.

IV. Scope

Sweden would like to see a broad scope for the treaty, including small arms and light weapons, other military systems, and munitions, including ammunition used by the weapons and systems covered by the treaty. We also feel that the scope should include specially designed or modified parts and components for items covered by the treaty, as well as specifically related technology, in order to prevent circumvention of controls on complete weapons or military systems. The inclusion of technology in the treaty should not have much impact on actual technology transfer, as most if not all technology holders already exercise control over its transfer.

Dual-use products should not be covered by the treaty.

V. Criteria and parameters

Sweden supports all the criteria identified during the meetings of the Preparatory Committee and enumerated in the Chair's non-paper, although further work is needed on wording. It is important to note that these criteria commonly occur in the already well-established control systems of major exporting countries. Their inclusion in an arms trade treaty is therefore not expected to have much overall impact on current legal trade.

VI. Implementation

The implementation section contains the most basic obligations of the treaty, namely those related to the effective exercise of Government control over international arms transfers. Not all States Members of the United Nations are producers or exporters of arms. Therefore there should be separate subheadings in this section setting out clear obligations for each of the four major types of activities we have suggested in section IV. Each of the four types have different characteristics, and different obligations therefore need to be defined for each. The criteria and parameters defined in section V of the Chair's non-paper are mainly applicable to activity (1), which includes exports. For activity (2), imports, the possible use of criteria and their precise nature should be determined at the national level. For activities (3) and (4), transit, trans-shipment and brokering, only the criteria listed in the Chair non-paper's section V.A should apply.

Care should be taken to avoid excessive detail in describing the obligations associated with each type of activity. What is appropriate for a major producer and exporter is not necessarily appropriate for a non-producing country with only a handful of transactions per year to control.

Record-keeping should be a basic obligation for all control systems. In the light of the long service life of most military equipment, records should be kept for much longer than the 10 years suggested in the Chair non-paper, or enforcement of national controls will be severely hampered.

There should be strong and clear reporting obligations on individual signatory States' implementation of the treaty in terms of setting up the necessary legislation and administrative infrastructure for an appropriate national control system. Such reporting will facilitate the provision and targeting of implementation assistance.

As to reporting related to the actual operation of national control systems and to trade flows, Sweden is conscious of the link between the nature of controls and the content of reporting. For instance, it is reasonable to expect more-detailed reporting in those areas where a licensing system is mandated in the treaty. Sweden is also open to considering different levels of reporting obligations appropriate to different categories of materiel, for instance major systems such as tanks as compared to bulk products such as munitions or ammunition.

In the shaping of reporting requirements on the operation of national control systems and trade flows, careful account should be taken of the importance of public transparency and national accountability, limiting secrecy to a necessary minimum.

VII. International cooperation and assistance

As the illegal trade in arms is a cross-border phenomenon, international cooperation and exchange of information, particularly in enforcement, is a necessary feature of an arms trade treaty. Existing language in the Chair's non-paper reflects these needs quite well.

Given the goals described in section III above, an arms trade treaty will not have the desired impact unless it is fully implemented by all signatories. Sweden therefore assigns great importance to the availability of assistance to facilitate rapid and effective implementation of the treaty. Many programmes supporting arms trade control systems exist already, and the experience gained in them will significantly enhance efforts under the treaty.

Sweden favours the funding of an arms trade treaty by its signatories. We therefore also favour an initially small implementation support unit that could grow over time as new tasks are added. Signatory States will have to weigh the benefits of such additional tasks against the associated additional costs.

The concept of a very large implementation support unit independently providing implementation support has serious flaws. It is unclear how funding for such an organization could be mobilized, even within the regular budget of the United Nations. It would also be very difficult to recruit the necessary technical expertise for such a programme, since there is a very limited pool of experts available, most of them already employed in existing control systems. The provision of implementation assistance on a bilateral or regional basis circumvents both these

problems by effectively sharing existing expertise and by, to some extent, utilizing existing national budget lines.

VIII. Final provisions

Sweden favours a numerical ratification requirement for entry into force. All countries, whether they are mainly exporters, importers or transit States, have an important role to play in the treaty. The number of ratifications required should not be set too low, or the universal nature of the treaty could be weakened.

Sweden supports the withdrawal clause suggested in the Chair non-paper, which specifies that specific obligations arising before withdrawal should be honoured by the withdrawing State party. Such a clause is necessary for the orderly functioning of any treaty.

Sweden favours annual meetings of States parties.

Dispute settlement provisions should apply to the implementation of treaty obligations and not to individual decisions on the authorization of transfers, which remain a national responsibility.

IX. Transactions and activities to be covered by the treaty

Sweden sees "transfers" as an overarching concept and feels that annex A of the Chair's non-paper should form the basis for an enumeration of the various types of transfers covered by the treaty. These should include: (1) exports and re-exports, temporary transfer, leases, loans and gifts; (2) imports; (3) transit and trans-shipment; and (4) brokering.

Manufacture under foreign licence is merely one legal format for technology transfer, and is therefore covered by that broader term. The concept of technology transfer as an activity should be deleted entirely if specially related technology is included in the scope of the treaty.

The treaty should not regulate the movement or possession of controlled items within the territory of a State party, or their transfer to a State's own armed forces abroad.

X. Additional views

None.

Switzerland

[Original: English]
[3 April 2012]

Switzerland supports the non-paper submitted by the Chair in July 2011 and considers it an excellent basis for the conference negotiations. Switzerland believes that the following elements should be reflected in the treaty.

I. Preamble

The treaty shall recognize the States' legitimate political, security, economic and commercial interests in the transfer of conventional arms. It should also

recognize that the absence of commonly agreed international standards for such transfers may have negative consequences for international peace, security, stability and social and economic development as well as human security.

The treaty should uphold the efforts undertaken by the international community in order to establish standards and procedures that reinforce and complement efforts to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects.

The treaty must allow the States parties to adopt more restrictive measures than those laid down in the treaty.

II. Principles

A strong, robust and effective treaty must incorporate the principles of transparency, non-discrimination and universality. The treaty may make reference to the purposes and principles codified in the Charter of the United Nations, to the need for compliance with Security Council decisions and States' obligations under international law, including international human rights law and international humanitarian law. It should emphasize the importance of the application of strict export controls.

III. Goals and objectives

Switzerland urges an ambitious treaty establishing the highest possible common international standards for the transfer of conventional arms. The goal must be to better guide and control the legal arms trade as well as to prevent, combat and eradicate the illicit arms trade. The treaty shall contribute to reducing human suffering resulting from armed violence and enhance transparency and accountability in transfers of conventional arms. The treaty should be universal in its application.

IV. Scope

The treaty must cover all conventional arms listed in the Register of Conventional Arms as well as small arms and light weapons, ammunition, parts and components and relevant technologies.

In particular, the uncontrolled trade of small arms and light weapons undermines States' sovereignty and fuels armed conflicts; it leads to the violation of international humanitarian law, international human rights and international criminal law. Therefore the inclusion of small arms and light weapons is of paramount importance for the promotion of peace and security as well as the reduction and prevention of armed violence.

Only when parts and components and technology of conventional arms are covered by the treaty can evasion be prevented.

The treaty should make a distinction between export- and import-related activities. Export-related activities should cover export, re-export, temporary export, trans-shipment, transit, transfer of technology, including manufacturing under foreign licence, and brokering. Import-related activities should include import and reimport. The covered activities do not depend on the manner of financing, such as a

sale, loan or gift. Owing to practical difficulties, the financing of trade activities itself should not be subject to the treaty's scope.

V. Criteria and parameters

Every application for an export-related activity subject to the treaty should be assessed by a national authority on a case-by-case basis.

In the granting of a licence for one of the above-mentioned export-related activities, the following criteria must be taken into account:

(a) The maintenance of peace, international security and regional stability;

(b) The respect for human rights in the country of final destination;

(c) The efforts made by the international community with regard to poverty reduction and socioeconomic development;

(d) The prevalence of corruption in the country of final destination;

(e) The conduct of the country of destination towards the international community, in particular with regard to compliance with international law.

Licences for export-related activities shall not be granted if:

(a) The respective activity would be in breach of international law, such as decisions of the Security Council acting under Chapter VII of the Charter, or other States' international commitments;

(b) There is a substantial risk that the respective arms would be used in a manner that would seriously undermine peace and security, or provoke, prolong or aggravate internal, regional or international instability;

(c) There is a substantial risk that the respective arms would be used to commit or facilitate serious violations of human rights law, international humanitarian law or international criminal law, including genocide, crimes against humanity and war crimes;

(d) The respective activity would seriously impair poverty reduction and socioeconomic development or seriously hamper the sustainable development of the recipient State;

(e) There is a substantial risk that the respective arms would be diverted to unauthorized end users for use in a manner inconsistent with the principles, goals and objectives of the treaty;

(f) There is a substantial risk that the respective arms would be used in the commission of organized crime as defined in the United Nations Convention against Transnational Organized Crime, or to support, encourage or perpetrate terrorist acts.

These criteria must be applied in a transparent, objective and non-discriminatory manner.

A comprehensive treaty must stipulate an obligation to establish controls on import-related activities. Respective criteria, such as security considerations, may be defined by each State party under its own sovereignty.

VI. Implementation

Member States should establish national legal and administrative systems in order to implement the treaty. National laws, regulations, administrative procedures, and enforcement mechanisms should be adopted or amended in order to establish transparent and predictable controls on each activity in the scope of the treaty. The decision to approve a given activity remains in the sovereignty of States parties. Switzerland strongly believes that States parties should assign the highest priority to ensuring that export control systems and respective decisions are transparent and do not lead to political abuse.

There should be a designated national authority for the authorization procedure. Other governmental agencies should be involved in the process as their competencies may improve the quality of the decision. Documents required for authorization should be validated during the procedure. An end user certificate should be a formal precondition for the authorization of an activity, and the option of post-shipment verifications should be included therein. If a certain activity is authorized, the arrival of the controlled goods at the indicated final destination should be systematically checked and post-shipment verifications should be conducted.

In order to ensure an effective export control, the designated national authority should cooperate closely with border control and customs authorities. Therefore, these authorities should be reinforced as well as sensitized to and trained in export control issues. Compliance with the export control system and the combat against illegal trade can best be enforced through penal sanctions. In every case, the rule of law must be upheld.

Switzerland supports rules on record-keeping, reporting and transparency. At the domestic level, disposing of records of decisions taken in the past will strengthen legal security and reinforce the capacity of the licensing agency to assess new applications. At the international level, information exchange provides transparency, which builds confidence and allows a consistent implementation of the treaty. Such rules facilitate the international combat against illicit arms trade and other illicit activities. Records should be kept for a minimum of 20 years.

Regular reporting on the basis of a template should cover national activities undertaken to implement the treaty obligations, including laws, regulations guidelines and administrative measures, as well as national annual reports on transfers of conventional arms. The treaty should demand a high standard of content without creating a burdensome bureaucracy, especially for States with minimal activities in the controlled goods.

VII. International cooperation and assistance

Switzerland urges strong cooperation between States parties. Information exchange could include national implementation of the treaty obligations as well as information on specific problematic cases and actors, consistent with national legislation on commercial and proprietary protection.

Mutual legal assistance in cases of legal prosecution in relation to violations of provisions of the treaty should be encouraged.

Assistance for the implementation of treaty obligations could be offered by the United Nations system, regional and subregional organizations, non-governmental organizations, or on a bilateral basis.

A strong, robust and effective treaty will demand highly effective implementation. In order to achieve the treaty's goals and objectives, States parties should be encouraged to assist each other, upon request, with technical, legal, material and financial means. With regard to well-functioning designated national authority, capacity-building should be one of the core objectives. The proven experience and knowledge of civil society should be included in the efforts.

Switzerland welcomes the establishment of a small and independent implementation support unit with administrative and coordinating tasks and which is only accountable to States parties. Information sharing and the coordination of international cooperation and assistance could be organized thereby.

VIII. Final provisions

Switzerland supports the establishment of an assembly of States parties and a quinannual review conference.

IX. Transactions and activities to be covered by the treaty

[... (see section IV)]

X. Additional views

Thailand

[Original: English]
[3 April 2012]

I. Preamble/II. Principles/III. Goals and objectives

Thailand continues to believe that international standards and practices to prevent illicit arms can effectively curb irresponsible arms use. Thailand confirms our long-standing principle and policy to support international efforts to combat these threats. Hence, the treaty should have the primary objective of addressing illicit transfers of weapons.

Thailand underlines the importance of the inherent rights of States to regulate their internal affairs, self-defence, political independence, territorial integrity and the ability to meet their own national security needs, consistent with each State's international obligation, including the relevant Articles of the Charter of the United Nations and resolutions of the Security Council, and in order to participate in international peace support operations.

The treaty should be cognizant of pre-existing frameworks. Synergies should be created between the treaty and other frameworks.

Thailand attaches great importance to balancing unique national security needs and important commercial interests, while addressing costly crimes from illicit arms in an arms trade treaty.

IV. Scope

The clarity of definitions is important to effectively monitor and reduce illicit arms, as well as to prevent possible exploitation of the treaty as a protectionist trade policy.

There already exist several legally binding or hortatory international agreements and cooperation frameworks for arms control, widely accepted by States Members of the United Nations, that can provide a useful basis for the discussion on the scope of the arms trade treaty.

The usage of common wordings and definitions in the scope section, taken from the seven categories of conventional weapons from the United Nations Register of Conventional Arms and definitions of small arms and light weapons stated in the International Tracing Instrument can facilitate coordination and implementation across a broad group of States.

The Register may omit some new lethal weapon from coverage. In this regard, the annexation of the scope section to allow flexible changes through addition or deletion of items that can be introduced to the treaty through approval from States parties will be helpful. The annexation will ensure that the arms trade treaty remains relevant in the years to come.

V. Criteria and parameters

The inalienable rights of all States to regulate their internal affairs, protect territorial integrity and ensure political independence and commitments to the principle of sovereign equality in acknowledgement of peace and security should be assured.

The right of each State to manufacture, import, export, transfer and retain arms for national self-defence in accordance with Article 51 of the Charter of the United Nations and to meet its own national security needs and participate in the international peace support operations is also inalienable.

VI. Implementation

Thailand supports the establishment of a national authority with a clear role to oversee the implementation of the provisions of the treaty.

Thailand is supportive of a mechanism that would cover dispute settlement, transfer denial, international cooperation and assistance and compliance monitoring.

The treaty should recognize the need for international cooperation and technical assistance, especially for countries in need of a helping hand and wishing to receive such assistance. Thailand believes that a transparent mechanism in the form of a comprehensive database will be able to efficiently and transparently match needs with expertises.

Thailand is of the view that a properly functioning implementation mechanism can prevent the use of the treaty as a justification for protectionist trade policies or as a precursor to internal interference.

Thailand supports the creation of an implementation support unit that could facilitate and coordinate all of the above-mentioned mechanisms with transparent oversight from States parties.

VII. International cooperation and assistance

Thailand is of the opinion that a transparent international cooperation and assistance mechanism should be established to provide necessary resources to all States towards addressing the problem of illicit arms and complying with the treaty.

A measurable, verifiable and reportable mechanism on international cooperation can ensure that States are not subjected to undue difficulties in complying with the obligations of the arms trade treaty.

New standards and technologies in customs procedures, record-keeping, reporting and transparency, developing efficient national legislation and organizations, law enforcement capabilities and transfers of technical knowledge can benefit from international sharing and cooperation.

A clearer commitment by States Members of the United Nations on an international cooperation and assistance mechanism can ensure that the arms trade treaty effectively reduces illicit arms.

VIII. Final provisions

A consensual, realistic and implementable treaty is the only way towards acceptance and action by States.

Thailand reiterates our support of a mechanism that would cover dispute settlement, transfer denial and compliance monitoring.

Transition periods can effectively prepare and orient the relevant agencies concerned to amend existing domestic laws or enact new laws to implement provisions under any new international agreement.

As the success of the treaty to curb the proliferation of illicit weapons depends largely on the number of participating States, Thailand supports a substantive number of accessions as a prerequisite for the entering into force of the treaty.

IX. Transactions and activities to be covered by the treaty

The annexation of the scope section, covering all transactions and activities, will ensure that the arms trade treaty remains relevant in the years to come.

X. Additional views

Thailand supports the open and transparent participation of States on the basis of consensus, in which all States can equally voice their concerns and make positive contributions to the treaty process.

The former Yugoslav Republic of Macedonia

[Original: English]
[10 April 2012]

Being located in a region where, over the last decade of the twentieth century, the uncontrolled spread of conventional weapons, in particular small arms and light weapons, fuelled or exacerbated conflicts and had devastating humanitarian consequences, the former Yugoslav Republic of Macedonia has been a strong

supporter of the elaboration of a legally binding international instrument establishing the highest common standards for the import, export and transfer of conventional weapons. A strong and robust arms trade treaty must aim to prevent conventional weapons from being used to threaten security, destabilize regions, violate international human rights and humanitarian law, undermine economic and social development and exacerbate conflicts.

I. Principles

The former Yugoslav Republic of Macedonia considers the guiding principles for the treaty to be that it should recognize the right of States to self-defence, reaffirm the right of States to produce, manufacture, import and export conventional weapons, reaffirm the respect for the principles of the Charter of the United Nations and international law, including international human rights and humanitarian law, and recall the obligations of States to fully comply with international legally binding obligations, including arms embargoes.

II. Goals and objectives

The main objective of the treaty should be to establish the set of the highest possible international norms regulating international arms transfers; to prevent the illicit trade in conventional arms; to promote transparency and accountability in the arms trade; and to be of universal application.

III. Scope

The former Yugoslav Republic of Macedonia is of the opinion that the scope of the treaty, both in terms of arms and activities covered, should be as wide as possible. The treaty should contain references to general categories of activities and items to be covered by it. More detailed listing and descriptions for each activity and item should be included in annexes to the treaty.

The existing United Nations Register of Conventional Arms categories, which need to be widened to ensure a global scope, should be used as a starting point.

Furthermore, small arms and light weapons (and ammunitions for them), as well as explosives designed for military use, should be included in the scope of the treaty.

The scope of the treaty should also include other military systems specifically designed or modified for military use.

The same goes for parts and components specially designed or modified for military use and the ammunition of all items included in the scope of the treaty.

As far as the list of items is concerned, the Wassenaar Arrangement munitions list can serve as an excellent reference point.

IV. Criteria and parameters

The treaty should clearly set the criteria and parameters to be applied by States when considering whether transfers are legitimate. Those criteria and parameters should include:

Compliance with Security Council resolutions on arms embargoes and sanctions and with other legally binding arms embargoes or sanctions adopted by regional or subregional organizations to which individual States are party;

Compliance with international humanitarian law and respect for human rights;

Compliance of the recipient State with international commitments and obligations, in particular with regard to terrorism, organized transnational crime, and the non-use of force;

Consideration of a substantial risk of adverse effect on regional security and stability, including the impact on existing or potential interstate and intra-State conflicts;

Consideration of a substantial risk of diversion to unintended and unauthorized end users or to illicit markets, including the risk of unauthorized re-export;

Consideration of the impact on the sustainable economic and social development of the receiving country.

The treaty should also include a reference to the risk of corruption and to the obligation to combat such crime in activities related to the arms trade.

V. Implementation

The former Yugoslav Republic of Macedonia believes that the implementation of the treaty must remain a national responsibility and, in that context, should impose obligations on States rather than individuals or entities. States parties should develop legal and administrative systems to ensure the control of all transfers of items covered by the treaty. The application of such systems should remain a national responsibility for each State.

Transparency provisions are of utmost importance for the former Yugoslav Republic of Macedonia since one of the primary objectives of the treaty is to increase transparency in the conventional arms trade. In this regard, we support the inclusion of provisions requiring States parties to regularly report on the implementation of the treaty. The reporting system should be effective but not burdensome and pay due regard to confidentiality. Furthermore, the former Yugoslav Republic of Macedonia supports information exchange among States parties.

As far as the provisions on the assistance of victims are concerned, the former Yugoslav Republic of Macedonia is of the view that the treaty is expected to have a positive impact on reducing human suffering and armed violence, but that specific provisions on such assistance should not be part of it, given the fact that the treaty is not meant to be an international disarmament instrument.

VI. International cooperation and assistance

The former Yugoslav Republic of Macedonia supports the inclusion of provisions on international cooperation and assistance in the text of the treaty to enable States parties to seek assistance to facilitate national implementation of the treaty.

Of particular importance is [illegible]untary information exchange among States parties on matters regarding the [illegible]mentation and application of the treaty, which is expected to enhance the effectiveness of law enforcement institutions.

VII. Final provisions

In order to facilitate its swift entry into force, the former Yugoslav Republic of Macedonia is of the opinion that the threshold of ratification required should be fixed at a reasonable level.

The former Yugoslav Republic of Macedonia supports the proposal on annual meetings of States parties to promote dialogue and ensure smooth functioning of the treaty, as well as the holding of review conferences every five years following its entry into force, to review the implementation of the treaty in order to ensure consistency in its operation, review its status, regularly update its possible annexes and take necessary decisions.

VIII. Transactions and activities to be covered by the treaty

In terms of the range of transfers to be covered by the treaty, the former Yugoslav Republic of Macedonia is of the view that they should be clearly defined and should realistically be confined to international transfers, for example, arms and related technology from the territory of one State to another, including Government-to-Government or State-to-State transfers.

The former Yugoslav Republic of Macedonia considers that the treaty should cover the following type of tangible and intangible transfers of equipment: export, import, re-export transit, trans-shipment, brokering, transfer of technology, technical assistance, leases, gifts and loans related to conventional weapons.

Togo

[Original: French]
[3 April 2012]

Introduction

Like other countries, Togo is concerned about the anarchic proliferation of arms, which is endangering peace and security, destabilizing States and threatening their sustainable development.

Aware that the efforts to contain the proliferation of arms are of fundamental importance to world peace and security, Togo stands by its commitment to the cardinal principles of peace and harmony and supports any measures designed to bring about that end. It therefore welcomes the adoption by the United Nations General Assembly, on 6 December 2006, of resolution 61/89, which envisages the preparation of a comprehensive, legally binding instrument to regulate the international trade in conventional arms. This reflects the commitment and determination of the international community to combat a scourge whose devastating consequences are deplored by everyone.

Therefore, our country endorses the principle of an arms trade treaty, which will enable the flow of arms in the world to be regulated at the global level, and hopes that the treaty will take into consideration the following points:

I. Feasibility of the arms trade treaty

An arms trade treaty is feasible provided that it is based on existing international agreements and treaties on the subject and that it is ratified by the principal arms manufacturers.

II. Scope of the arms trade treaty

(1) The future arms trade treaty must cover all conventional arms, their ammunition and spare parts, together with the associated equipment. In particular, it must include:

- Heavy arms
- Small arms and light weapons
- Explosives
- The technology used to manufacture conventional arms
- Arms used for internal security
- Dual-use goods intended for military, security or policing purposes.

(2) The concept of arms transfer must necessarily cover:

- Import
- Export
- Re-export
- Transit
- Trans-shipment
- Free and paid transfers
- The transfer of technology.

(3) An arms transfer will not be authorized if the arms are destined to be used to:

- Violate a United Nations arms embargo
- Infringe other international, regional or subregional commitments or agreements on non-proliferation, control and disarmament
- Endanger internal and regional security and stability
- Attack another State or another people
- Contribute to the uncontrolled accumulation of arms or military capacity in a region
- Facilitate the commission of serious violations of human rights, international humanitarian law, genocide or crimes against humanity
- Undermine the rights and freedoms of individuals and populations

- Commit violent or organized crimes or facilitate the perpetration of such crimes
- Incite nationalist, racial or religious hatred
- In the country of final destination, cause tension which leads to or prolongs armed conflicts or exacerbates existing tension
- Commit acts of terrorism or provide support to terrorism
- Support a militia or armed opposition
- Achieve goals other than the satisfaction of legitimate self-defence and security needs in the recipient country
- Prevent or hold back sustainable development
- Be re-exported to unauthorized users or to the illicit market
- Give rise to acts of corruption.

(4) The arms trade treaty should also provide for the possibility of limiting the supply of arms, ammunition and spare parts in areas of instability and of preventing diversion.

III. Parameters of an arms trade treaty

A. Transfer modalities and conditions

(1) The arms transferred must bear reliable markings.

(2) The certificate of final destination must include the following information:

- The name and address of the sender, of any intermediary, of the recipient and of the end user
- The origin, the points of departure and transit, the customs references and the dates of departure, transit and delivery to the end user
- The export, transit and import licences
- The type of transaction (commercial or non-commercial, private or public, transformation, repair)
- The reason for the transfer (purpose)
- A description of the arm (type or model, calibre)
- Its quality
- The name and location of the former and new owners
- The date of registration.

B. Transparency of arms transfers

Transparency is a prerequisite for establishing or building trust between States, and hence for encouraging cooperation between them. It is regarded as a guarantee of honesty.

Transparency necessarily implies:

- The submission to the United Nations of national reports on arms transfers
- The annual publication of national reports
- The keeping of national and world registers on arms transfers.

C. Establishment of a control mechanism

The role of this institution will be to ensure that the treaty is implemented by the States parties and to impose penalties in cases of failure.

It would also be of interest to appoint a special rapporteur for each country, who would deal with matters involving arms transfers and would prepare regular reports for submission to the United Nations.

D. Building national capacity, especially in the case of developing countries

Control over arms flows is sometimes rendered difficult by the ease with which they can be concealed, the permeability of borders and the inadequacy of public resources. Accordingly, the treaty should place special emphasis on strengthening structures and upgrading competencies by providing training to staff working in the customs, security, inspection and trade sectors.

Emphasis must also be placed on the training of specialists in stockpile management and security.

E. Strengthening of subregional, regional and international cooperation in the exchange of information and experience

Multinational action is necessary in light of the transborder character of arms. States must combine their efforts on two fronts, supporting and facilitating efforts at the national level, on the one hand, and ensuring coordination, complementarity and synergy of efforts at the global, regional and subregional levels, on the other.

F. Combating the corruption of foreign public officials in international trade transactions

G. Support for educational activities

Since prevention is better than cure, the treaty should promote programmes to educate, inform and raise awareness concerning all aspects of the arms trade.

H. Role and responsibility of the States parties

Each State must be able to exercise effective controls over local production in order to avoid overproduction and anarchy in the arms trade.

I. Role and accountability of manufacturers and sellers

With a view to preventing the illicit trading of arms, the treaty should place particular emphasis on the accountability of manufacturers and sellers.

Conclusion

Togo again congratulates the United Nations General Assembly on its welcome initiative aimed at controlling the arms trade and hopes that the process set in motion will bring great benefit to the whole of humanity.

To this end, our country, which intends to play a major role in the undertaking, is ready to participate actively at every stage of the process.

Trinidad and Tobago (on behalf of the Caribbean Community)

[Original: English]
[31 March 2012]

The Caribbean Community (CARICOM) is of the view that the Chair's non-paper of 14 July 2011 represents a balanced perspective on our deliberations thus far on the treaty and would form a useful basis for our negotiations at the diplomatic conference on the treaty, to be held in July 2012.

Preamble

CARICOM endorses the preamble as set out in the Chair's non-paper and in particular its strong humanitarian focus. We would, however, like to see reference to armed violence.

Principles

CARICOM supports the principles as set out in the Chair's non-paper, in particular the references to the Charter of the United Nations; the political independence, sovereign equality and territorial integrity of all States; the right to self-determination; the general prohibition against the use or threat of use of force; and the rights and obligations of States under international law, including international human rights law and international humanitarian law.

Goals and objectives

CARICOM supports the goals and objectives of the treaty outlined in the Chair's non-paper of July 2011 and remains convinced that one of the key aims of the treaty should be the prevention of the diversion of such weapons to the illicit market through the establishment of adequate controls. The treaty should also seek to prevent transfers to non-State groups.

Scope

The types of weapons to be governed by the treaty should at a minimum include the seven categories of conventional weapons covered under the United Nations Register on Conventional Arms and small arms and light weapons and ammunition. CARICOM would, however, be supportive of expanding the scope beyond the categories within the Register, as outlined in the Chair's non-paper, which also covers the parts and components of these weapons.

With regard to the types of transaction or activities to be covered, CARICOM submits that the scope should include import, export, transfer, brokering, manufacture under foreign licence and technology transfer. Transit and trans-shipment should

also be included in the scope. In addition, provision should be made to allow an arms trade treaty to be adaptable to accommodate reviews and updates in the light of future technological developments and changes in the methods of warfare. This is essential if the treaty is to effectively serve its purpose.

Criteria and parameters

CARICOM is of the view that the criteria to be used to determine whether a transfer should be authorized should be objective and unbiased. Such criteria should represent benchmarks that would be universally acceptable. The criteria for determining whether a transfer should be allowed should include the following:

1. Risk that the transfer might violate action taken by the Security Council under Chapter VII of the Charter of the United Nations or be in breach of any other treaty obligation or peremptory norm or norm of jus cogens;

2. Risk that a transfer might provoke, prolong or aggravate existing tensions or conflicts, including armed violence in the recipient State;

3. Risk that the intended recipient of the transfer might use the proposed shipment against another State to adversely affect regional stability in a significant way;

4. Risk that the weapons might be used in the commission of crimes, including acts of terrorism and transnational organized crime;

5. Risk that the weapons might be diverted to unauthorized end users for use in a manner inconsistent with the treaty.

Implementation

CARICOM firmly believes that a strong implementation regime is essential for an effective and internationally binding legal instrument that sets out the minimum guidelines to be adopted for the conventional arms trade. Consequently, the following mechanisms should be incorporated into the treaty:

1. The establishment of a dedicated secretariat/implementation support unit to assist States parties with the implementation of the provisions of an arms trade treaty. Such a secretariat/unit should not be based on existing structures in place at the United Nations. The financial cost of such a secretariat should be borne by States parties;

2. The secretariat/unit should be more than just a repository for receiving reports of States parties and should play a role in facilitating, inter alia, international cooperation and assistance;

3. The establishment of national focal points to liaise with the secretariat on issues relating to implementation;

4. Meetings of States parties that would facilitate the exchange of information and sharing of best practices to be adopted in implementing the treaty as well as any other related matters;

5. The submission of initial reports and thereafter periodic reports on the national implementation measures adopted by States parties;

6. Monitoring and verification systems to ensure that there is compliance with the provisions of the treaty;

7. States parties should be required to maintain detailed national reports on all international conventional arms transfers and on activities undertaken in order to implement the treaty;

8. States parties should establish national legislative, administrative and other mechanisms to give effect domestically to the provisions of the treaty, which should include penalties for breach of its provisions.

International cooperation and assistance

CARICOM reiterates that international cooperation and assistance should be a key component of the treaty as it would assist States with capacity and legislative challenges to meet their obligations under the treaty. It therefore supports the Chair's non-paper as it relates to the offer and receipt of technical, legal, material and financial assistance, encouraging information-sharing and the exchange of best practices.

Final provisions

CARICOM believes that the treaty should enter into force with the minimum number of States parties required to ensure an efficiently operating instrument, that is, 30 to 60 State party ratifications, and should therefore avoid a tiered ratification regime.

CARICOM underscores that reservations incompatible with the object and purpose of the treaty should not be permitted.

CARICOM advances that the treaty should provide for effective measures to resolve disputes among States parties on the interpretation and application of the provisions of the treaty, with consideration being given to referral to an independent third party where disputes remain unresolved.

We support the provisions of the Chair's non-paper, in which the Chair calls for the establishment of an assembly of States parties that should be held biennially.

CARICOM also supports the convening of a review conference every five years to provide an opportunity for States parties to review the implementation of the treaty and consider proposed amendments to the instrument.

The provisions on relations with States not party to the treaty should also address the matter of trade between States parties and non-States parties.

Transactions and activities to be covered by the treaty

CARICOM finds merit with the definition of "transfer" in the Chair's non-paper, where the term is defined as covering import, export, re-export, temporary transfer, trans-shipment, transit, transport, lease, loan, brokering and gift of conventional arms.

Ukraine

[Original: English]
[27 March 2012]

I. Preamble

All humanitarian aspects, if introduced, are to be included in the preamble, given the fact that there are no strict regulations in the relevant humanitarian laws that establish an arms embargo to be implemented as a result of their violation.

The treaty should increase transparency in the conventional arms trade, thus contributing significantly to curbing illegal transfers.

II. Principles

The implementation of the treaty should remain a national responsibility. The treaty should only impose obligations on States parties and not on individuals or entities. The treaty must match the implementation capabilities of States, as established under the treaty.

The treaty should establish export control measures against parameters defined by the treaty. The parameters must not impede legal trade, and should be permissive rather than restrictive.

The treaty should not constrain the right of States to self-defence nor be seen as an international discriminatory instrument.

The treaty should provide for the possibility of each State party to develop a legal and administrative system that would enable it to control all transfers of items covered by the scope of the treaty.

III. Goals and objectives

The major goals of the treaty may be identified, inter alia, as preventing illicit international arms transfers to combat international crime and terrorism; contributing significantly to curbing illegal provisions of small arms and light weapons while increasing transparency in the arms trade; maintaining peace and promoting security and stability at the regional and interregional levels; ensuring a mechanism of international cooperation and assistance in this sphere; and encouraging the universalization of arms control globally.

The treaty should contain an obligation for States parties to submit regular reports on implementation and application of the provisions of the treaty.

IV. Scope

The treaty should include a clear and concrete list of arms that may be based upon the United Nations Register of Conventional Arms and may include the list of military equipment of the Wassenaar Arrangements. Armaments and specific dual-use goods, possibly just for military end-use may also be covered. A mechanism to update the lists should be envisaged in the treaty.

The scope of the treaty may cover a wide spectrum of transfers, such as import, (temporal) export, re-export, transit, trans-shipment, technical assistance,

technology transfer (disclosure) and brokering. Should the scope of the treaty be established, it must be consistent with reporting categories to be determined in the treaty.

V. Criteria and parameters

To achieve an adequate understanding of and proper compliance with the treaty, its text needs to be enhanced by definitions. We would prefer to have them within the text rather than in an annex. In our opinion, strict definitions would make a treaty more effective, because some criteria, especially those that are uncountable in nature, could be randomly interpreted and thus bring about uncertainty.

The treaty should set out the basic principles to guide States parties on the issuance of licences for international arms transfers.

Standards for transfer licences must be established. These should take into account, in particular, international obligations determined in Security Council resolutions imposing embargoes on arms transfers and existing non-proliferation and disarmament arrangements, including regional ones.

VI. Implementation

The treaty should establish an obligation to each State party to develop a legal and administrative system that would ensure control over all transfers of items covered by the scope of the treaty.

Accession to the treaty would be contingent on proper domestic implementation in accordance with national legislation and regulations and in line with obligations under the treaty. Since a significant portion of illegal arms circulation originates from insecure storage and fake accounting, the treaty should promote the establishment of proper internal arms storage and transfer mechanisms. At the same time, it should ensure there is no infringement on domestic ownership of firearms.

The treaty should establish a mechanism for regular assemblies of States parties, such as review conferences to ensure, inter alia, the harmonious interpretation and implementation of the treaty.

The threshold of ratification required for the entry into force should be fixed at a reasonable and attainable level.

An implementation report, to be submitted within a fixed term after the treaty comes into force, should be introduced.

VII. International cooperation and assistance

States parties should cooperate with one another and exchange information upon request, taking into account the respect of commercial and proprietary protection.

Should an implementation support unit be established for coordinating and priority purposes only, its structure should remain minimal and its role must be secretarial.

Any international assistance under the treaty must be subject to the recipient's obligation to meet its commitments under the treaty, including compliance with

specified transparency provisions, particularly on reporting and the exchange of information on transfers.

VIII. Final provisions

Transactions and activities to be covered by the treaty

The exchange of information must be a very important part of the treaty. We believe that initial declarations, annual reports and reports submitted before regular review meetings of the prospective treaty would be enough to serve as a basis for making necessary conclusions.

IX. Additional views

We would prefer a quick and easy implementation of the treaty. The implementation threshold of the treaty should reasonably exceed a number of major players on the market that are already prepared for implementation.

United Kingdom of Great Britain and Northern Ireland

[Original: English]
[30 March 2012]

The United Kingdom of Great Britain and Northern Ireland strongly supports the Chair's July 2011 non-paper. The United Kingdom believes it is a fair reflection of the general discussions in the treaty process to date and provides an ideal basis for negotiations at the treaty Diplomatic Conference, to be held in July 2012. In the view of the United Kingdom, there are some areas where further elements could be added and one or two issues that would benefit from clarification, as set out below. The United Kingdom looks forward to working with the Chair and other States in the period up to and at the diplomatic convention in order to produce a comprehensive, robust treaty that strengthens international law, regulates and facilitates the legitimate trade in conventional arms and prevents the diversion of conventional arms into the illicit market, thereby delivering a significant positive humanitarian benefit.

I. Preamble

The United Kingdom fully supports the preamble as set out in the Chair's non-paper and in particular its strong humanitarian focus. We also recognize that there is a clear link between the absence of commonly agreed international standards for the transfer of conventional arms and a range of negative consequences for human security and development.

II. Principles

The United Kingdom supports the principles as set out in the Chair's non-paper, in particular the references to the Charter of the United Nations; the political independence, sovereign equality and territorial integrity of all States; the right to self-determination; the general prohibition against the use or threat of use of force; and the rights and obligations of States under international law, including international human rights law and international humanitarian law.

III. Goals and objectives

The United Kingdom fully supports all the goals and objectives as set out in the Chair's non-paper.

IV. Scope

The United Kingdom fully supports the comprehensive approach of the Chair's non-paper to the scope of the treaty.

Regarding items to be covered, the United Kingdom agrees that the scope of the treaty should include all conventional weapons, including, at a minimum, manned or unmanned weapons; tanks; other military vehicles; artillery systems; military aircraft and helicopters; surface and submarine naval vessels armed or equipped for military use; missiles and missile systems, guided or unguided; small arms and light weapons; mines and other explosive devices; munitions for use with any of the above; parts or components specially and exclusively designed for any of the above; and technology and equipment specially and exclusively designed and used to develop, manufacture or maintain any of the above.

The United Kingdom believes that the publishing of a list of items to be controlled under the treaty should be a mandatory national responsibility.

The United Kingdom considers that the treaty could also cover arms and equipment used for internal security.

Regarding the types of transaction or activities to be covered, the United Kingdom agrees that the scope of the treaty should cover all necessary activities involved during the international transfer of conventional arms. To that end, the United Kingdom suggests the following definitions:

(a) "Import" shall mean the receiving in any manner of conventional arms into the territory of a State party;

(b) "Export" shall mean the change of title, control or ownership of conventional arms from one person in one State party to another person in another State party, including by way of gift, loan, sale or lease;

(c) "International transfer" shall mean the movement of conventional arms from one person in one State party to another person in another State, which may include all or some of the following transactions: import, export, transit or brokering;

(d) "Brokering" shall mean activities of persons and entities that either negotiate or arrange transactions that may involve the export of arms as defined in the treaty from a third country to another third country; or buy, sell or arrange the export of conventional arms that are in their ownership from a third country to another third country;

(e) "Transit" shall mean the physical passage across the territory of a State party, with or without trans-shipment, warehousing or change in mode of transport, when such passage is only a portion of a complete journey beginning and terminating beyond the territory of the State party;

(f) "Territory" shall mean the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of a State party.

V. Criteria and parameters

The United Kingdom strongly supports the comprehensive nature of the Chair's non-paper on the criteria of the treaty reflecting the existing obligations of States under international law. We support the current premise in the Chair's non-paper, that a State party shall not authorize a transfer of conventional arms if there is a substantial risk that those conventional arms would:

1. Be used in a manner that would seriously undermine peace and security or provoke, prolong or aggravate internal, regional, subregional or international instability;

2. Be used to commit or facilitate serious violations of international humanitarian law;

3. Be used to commit or facilitate serious violations of international human rights law;

4. Be used to commit or facilitate serious violations of international criminal law, including genocide, crimes against humanity and war crimes;

5. Seriously impair poverty reduction and socioeconomic development or seriously hamper the sustainable development of the recipient State;

6. Be diverted to unauthorized end users for use in a manner inconsistent with the principles, goals and objectives of the treaty, taking into account the risk of corruption;

7. Be used in the commission of transnational organized crime as defined in the United Nations Convention against Transnational Organized Crime;

8. Be used to support, encourage or perpetrate terrorist acts.

VI. Implementation

National authority and systems

The United Kingdom supports the comprehensive approach to the implementation of the treaty outlined in the Chair's non-paper. In particular, we support the requirement that States:

Adopt legislative and administrative measures to implement the treaty;

Designate competent national authorities for arms transfer authorization and ensure adequate national coordination;

Establish a national contact point for treaty matters;

Have a national control list of items under the scope of the treaty;

Take steps to control brokering and prevent diversion of arms transfers to unauthorized end users;

Provide, upon request, all necessary documentation to other States in the arms transfer chain.

The United Kingdom believes that States parties should be required to take necessary measures to control not only exports but also other transfers included in the scope of the treaty.

Record-keeping, reporting and transparency

The United Kingdom supports the need for the treaty to contain effective record-keeping, public reporting and transparency provisions, including the provision by States parties of detailed national reports on arms transfers as required by the treaty and on activities undertaken in order to implement the treaty.

The United Kingdom also believes that use should be made of existing instruments, such as the United Nations Conventional Arms Register, to avoid duplication or an excessive reporting burden on states.

Enforcement

The United Kingdom fully supports the provisions of the Chair's non-paper with regard to enforcement, in particular the need for States to establish legislative, law enforcement and judicial mechanisms together with penalties for violations of relevant national laws. This must also include strong and effective mechanisms to prevent corruption and prosecute those responsible.

Implementation support unit

The United Kingdom strongly supports the Chair's non-paper regarding the establishment of a small and functional implementation support unit that should perform whatever tasks are deemed necessary to support treaty implementation, including serving as a repository for national reports, assisting the assembly of States parties in carrying out its functions, acting as a clearing house for offers and requests for assistance, and promoting treaty universality.

VII. International cooperation and assistance

The United Kingdom strongly supports the provisions of the Chair's non-paper with regard to international cooperation, including with regard to information exchange and in terms of law enforcement and mutual legal assistance.

The United Kingdom fully supports the provisions of the Chair's non-paper relating to international assistance to strengthen capacity and build national capabilities to implement the treaty, including with regard to the offer and receipt of technical, legal, material and financial assistance. We also welcome references to encouraging information exchange on best practices.

VIII. Final provisions

The United Kingdom fully supports the provisions of the Chair's non-paper regarding final provisions of the treaty, including the establishment of an assembly of States parties and a five-yearly review conference.

The United Kingdom believes that the treaty should enter into force as quickly as possible with the minimum number of States parties required to ensure a functioning regime, that is, 40 State party ratifications.

Venezuela (Bolivarian Republic of)

[Original: Spanish]
[26 March 2012]

Preamble

The Conference shall consider, within a broad, transparent and democratic framework, only documents that have been agreed by consensus and any draft shall be adopted only on the basis of consensus.

The adoption of any future international instrument will require collective agreement on, inter alia, practical implementation mechanisms that are within the reach of all States and do not compromise their security. There must also be a genuine commitment to the development of safeguards that will prevent any future international instrument from being politicized or manipulated by the exporting countries.

Principles

Any future international instrument must be consistent with the spirit and letter of the Charter of the United Nations, including States' right of self-defence in accordance with Article 51 thereof. It must also be based on the principles of sovereign equality, territorial integrity, political independence and the self-determination of peoples; on the prohibition of the use or threat of force; and on the promotion of peaceful solutions.

The sovereign right of States to regulate arms transfers within their territory in accordance with their respective domestic laws must also be recognized.

Goals and objectives

The objectives of any future international instrument must be designed to promote the principles and purposes of the Charter of the United Nations and to promote transparency in the production, import, export and transport of conventional arms.

Under no circumstances should these objectives lessen the priority of nuclear disarmament, as agreed at the first special session of the General Assembly on Disarmament in 1978. We urge the industrialized States to significantly reduce their production and possession of and their trade in conventional arms with a view to greater regional and international peace and security.

Transparency should be fostered and the trade in conventional arms should not be "restricted"; at the same time, the necessary safeguards should be put in place in order to prevent the parameters and scope of any future international instrument from being misused and manipulated for political, commercial or economic reasons.

Under no circumstances should any future treaty restrict or limit the rights of arms-importing States.

Scope

Small arms and light weapons, ammunition, parts and spare parts, and technology must be excluded from the scope of any future international instrument on the conventional arms trade.

The scope of any future international instrument must be limited to the seven categories listed in the United Nations Register of Conventional Arms.

Parameters and criteria

We consider that only parameters that have been agreed by consensus, are unambiguous, measurable and relevant and can be implemented by the conventional-arms-exporting and -importing States should be set.

We reject any attempt to link arms transfers with human rights and international humanitarian law.

There should be no opportunity for a State, individually and on the basis of subjective judgments or political, commercial or economic interests, to take decisions in the context of this future international instrument that violate its spirit and purpose. Decisions must be taken by consensus through multilateral mechanisms, such as the relevant United Nations organs, with the proviso that they must not violate States' sovereign right of self-defence as enshrined in the Charter of the United Nations.

Sources of information should include the information submitted voluntarily by the authorities and government agencies of States themselves in accordance with the decisions and practice of the United Nations.

Decisions must be taken multilaterally by international consensus within the framework of the relevant United Nations organs, in which exporting and importing countries participate on an equal basis.

Implementation

We consider that there should be no room for interpretation of the commitments made under any future international instrument.

Implementation mechanisms should encourage the transfer of technology and provide incentives for accession to any future international instrument.

Viet Nam

[Original: English]
[11 April 2012]

General views

It has been the consistent policy of Viet Nam to be supportive of and strongly committed to international efforts towards disarmament and arms control, including the prevention of excessive use of conventional arms and their illegal transfers. Viet Nam therefore supports and takes part, in an active and responsible manner, in common efforts of the international community towards an international instrument regulating the international transfer of arms, as specified in General Assembly resolution 64/48.

Viet Nam is of the view that relevant parties should work towards an arms trade treaty that is legally binding and at the same time practical and effective in preventing the illicit trade of conventional arms. To that end, the treaty, by its nature, is not an international disarmament treaty and should provide for the respect of the legitimate right of self-defence of States. It should also not undermine the capability of each State to adopt necessary measures to exercise the right of self-defence and to meet its legitimate security needs, including the right to manufacture, export, import and maintain conventional arms in accordance with such needs.

Additionally, to ensure universal adherence, the treaty should be negotiated in a transparent and open manner that takes into account the views of all relevant parties. The treaty should be balanced, non-discriminatory and based on the basic principles of international law and the Charter of the United Nations, including respect for State sovereignty, territorial integrity and non-interference in internal affairs. Elements of the treaty, such as scope, criteria and implementation, are closely correlated and must therefore be discussed in a comprehensive, balanced and proper way.

Scope

The scope of the treaty is of great significance to its national implementation. To ensure consistency and effectiveness in its implementation, therefore, the scope of the treaty must be reasonable and proper and should cover seven categories of weapons, as specified in the United Nations Register of Conventional Arms, as well as small arms and light weapons. Ammunitions, parts and components, and technology should not be incorporated into the treaty since these are diverse and complex issues that are open to various interpretations and as such would make the implementation process too complicated and inconsistent, creating unnecessary burdens for national developments. The treaty should also contain precise definitions of categories of weapons for the sake of smooth implementation.

The treaty should also specify those transfer activities to be regulated as this is an important mechanism to prevent the diversion of arms to illicit markets. The consideration of such activities, however, should focus on that objective and take into account the potential consequences for States that regulating such activities could have on normal and legitimate trade, as well as socioeconomic and technological development. The treaty therefore should not regulate technology transfer, research and development or manufacturing under foreign licence.

Criteria

The criteria of the treaty concerning the international transfer of arms must be balanced, objective and clear, in order to establish common standards that are acceptable to all. Viet Nam believes that the assessment of arms transfers must take into consideration (a) the principle of non-use of force or threat of use of force in international relations and the principle of peaceful settlement of disputes among States; (b) the responsibilities of relevant States in accordance with their international, regional and subregional obligations and commitments, including relevant resolutions of the Security Council; (c) the potential use of transferred arms to seriously undermine international, regional and national peace, security and stability or to carry out terrorist activities or commit transnational organized crime, genocide, war crimes, crimes against humanity or other acts that seriously violate relevant international human rights law and international humanitarian law; and

(d) the prohibition of transfers to non-State actors that are not authorized or licensed by State authorities to prevent the diversion of arms to illicit hands. The assessment of arms transfers should also consider the potential consequences of transfer denials, especially for the right of States to adopt necessary measures to exercise the right of self-defence and meet legitimate security needs.

The potential effects on socioeconomic development, corruption and poverty in relevant States are issues of utmost importance to States. The international community, however, has already established various mechanisms for such issues, which should therefore not be incorporated in the treaty.

Furthermore, the treaty should establish appropriate mechanisms for consultations between exporting and importing countries prior to transfer assessments in order to ensure balance, equality and reciprocity in inter-State transactions, in which potential exporting States must attach importance to information provided by potential importing States and major organs of the United Nations.

Implementation

An effective, consistent and non-discriminatory implementation of the treaty is its most important element and the primary responsibility in this regard lies with national decisions of States. The treaty should not provide specific, detailed regulations but general guidelines for the framework and mechanism of implementation of each State, taking into consideration the varying implementation capabilities of States. The treaty must strike a balance between the need for transparency and the legitimate security needs of States in its provisions on transparency mechanisms, including regulations on reporting responsibility of States, which are established in accordance with the primary objective of the treaty, namely, to prevent the illicit transfer of conventional arms.

Additionally, to facilitate effective implementation, the treaty should provide for appropriate mechanisms of international cooperation and assistance to help States in need, especially developing ones, to be adequately equipped with the necessary resources and capabilities to establish national implementation systems. The implementation support unit of the treaty should be of a small, appropriate size to support States in procedural and administrative issues related to the treaty.

United Nations Conference on the arms trade treaty

The United Nations Conference on the arms trade treaty, to be held from 2 to 27 July 2012, is decisive to the establishment of an international instrument to minimize the consequences of the illicit transfer of arms. To ensure its success and broad participation of States, the Conference must be conducted in a transparent and open manner and its decisions, including the final text of the treaty, must be considered and adopted by consensus. The organization of the Conference, including the division into subcommittees, should ensure the full participation of States and must therefore take into account the limited capabilities of States, especially small and developing ones.

As a responsible member of the international community, Viet Nam will take part in and contribute actively and constructively at the Conference, together with other States, in striving for a legally binding international instrument to minimize the consequences of illicit transfers of arms.

Zambia

[Original: English]
[18 April 2012]

Elements for the arms trade treaty

Zambia rallies behind the Chair's July 2011 non-paper as a good basis for proceeding to negotiations at the Conference on the treaty, to be held from 2 to 27 July 2012 in New York.

Zambia supports the strengthening, rather than weakening, of elements as captured in the Chair's non-paper to the end that an envisaged arms trade treaty should deliver the most effective humanitarian benefits, thus enhancing international law beyond mere rhetoric.

I. Preamble

The preamble as set out in the Chair's non-paper offers a good humanitarian focus. Zambia bemoans the lack of internationally binding instruments and standards on the regulation of transfers of conventional weapons under consideration in the current negotiations as being negative in terms of human security, human rights, peace and development. Zambia thus puts its weight behind this aspiration.

Zambia further submits that the alleviation of human suffering arising from armed violence as a result of an unregulated trade in conventional arms should be the principal responsibility of States, along with assisting victims of armed violence in their recovery, rehabilitation and inclusion. It also submits that civil society should play an important role in supporting the implementation of the treaty.

II. Principles

Zambia supports the strong reference to the existing Charter of the United Nations, especially as it relates to the political independence, sovereign equality and territorial integrity of all States; the right to self-determination; the general prohibition against the use or threat of use of force; and the rights and obligations of States under international law, including international human rights law and international humanitarian law.

III. Goals and objectives

Zambia adopts the current goals and objectives as crafted in the Chair's non-paper as this is the best summation of the endeavour of States in pushing for an arms trade treaty.

IV. Scope

Zambia endorses the comprehensive and broad-based approach similar to the Chair's non-paper on the scope of an arms trade treaty.

In moving forward, Zambia encourages the use of language that includes such elements as corruption, international security, domestic security (police) and arms and their parts, components and ammunition.

In summary, Zambia proposes that the scope of the treaty should include all tanks; military vehicles; artillery systems; military aircraft and helicopters, manned or unmanned; surface and submarine naval vessels armed or equipped for military use; missiles and missile systems, guided or unguided; small arms and light weapons; ammunition for use with any of the above; parts or components specially and exclusively designed for any of the above; and technology and equipment specially and exclusively designed and used to develop, manufacture or maintain any of the above.

As a matter of duty, Zambia submits that the scope of the treaty should cover import, export, transfers, brokering, manufacture not only under national licences but also under foreign licences and technology transfer.

V. Criteria and parameters

Zambia proposes that the existing obligations of States under international law should be reflected. In particular, Zambia supports the principle that States should consider it their sovereign duty to refuse transfers where there is a substantial risk that such transfers would:

Violate decisions of the Security Council and other commitments relating to international arms transfer control;

Undermine peace, security and stability;

Be used to facilitate serious violations of international humanitarian law, international human rights law or international criminal law, including genocide, crimes against humanity and war crimes;

Undermine poverty reduction and socioeconomic development;

Be diverted to unauthorized end users;

Be used in the commission of crime or to support terrorist acts.

Zambia prays that the duty to refuse transfers should apply without exception, including in cases of a substantial risk that corruption would undermine the effective application of other treaty criteria.

VI. Implementation

National authority and systems

Zambia supports the comprehensive approach to the implementation of the treaty and particularly the requirement that States:

Adopt legislative and administrative measures to effectively implement the treaty;

Designate competent national authorities to authorize arms transfers and ensure adequate national coordination;

Have a national control list of items under the scope of the treaty;

Provide all necessary documentation to other States in the arms transfer chain.

Zambia additionally urges that States parties be required to take all necessary measures to control not only exports but all transfers included in the scope of the treaty.

Record-keeping, reporting and transparency

Zambia stresses the need for the treaty to contain record-keeping, reporting and transparency provisions, including the provision by States parties of detailed national reports on all international conventional arms transfers and on activities undertaken in order to implement the treaty.

Zambia would like to see that optional record-keeping and reporting provisions be made mandatory; that all reports provided by States parties be placed in the public domain and made available on a need-to-know basis; and that records be kept for a minimum of 20 years.

Enforcement

Zambia proposes that enforcement of the treaty be made mandatory and to that end urges States to establish legislative, law enforcement and judicial mechanisms together with penalties for violations of relevant national laws.

Implementation support unit

Zambia submits that a lean and business-minded implementation support unit should be established, inter alia, to serve as a repository for national reports, assist the Assembly of States parties in carrying out its functions, act as a clearing house for offers and requests for assistance and promote treaty universality.

VII. International cooperation and assistance

Zambia promotes the provisions on international cooperation assistance as essential to the effective implementation of the treaty. This cooperation should include such themes as information exchange, law enforcement and mutual legal assistance.

Furthermore, international assistance may take the form of strengthening administrative capacity and building national capabilities to implement the treaty, including with regard to the offer and receipt of technical, legal, material and financial assistance.

Given that victim assistance is the brightest spot in any humanitarian law, Zambia supports the inclusion of strong provisions that States parties in a position to do so should offer or receive assistance for the care, rehabilitation, and social and economic reintegration of victims of armed conflict.

Zambia supports the view that such international cooperation and assistance should not be withheld unduly by those States in a position to do so and that a working mechanism be developed that will help to bring together those States seeking assistance and those in a position to offer such assistance.

VIII. Final provisions

Zambia submits that the treaty should include the establishment of an assembly of States parties and a five-yearly review conference.

Zambia would like to see a significant minimum number of States parties for a functioning regime trigger the entry into force of the treaty.

Zambia also urges that no reservations to the treaty be permitted and that clear and effective dispute settlement provisions be required, including potential recourse to an independent third party should disputes prove intractable.

IX. Transactions and activities to be covered by the treaty

Zambia calls for an annex to the treaty that provides a common glossary of terms such as "transfer", to be defined as including the import, export, re-export, temporary transfer, trans-shipment, transit, transport, lease, loan or gift of conventional arms, including the transfer of title or control over the equipment and the physical movement of the equipment into or from a national territory. The annex should furthermore refer to brokering, manufacture under foreign licence and technology transfer.

In addition, Zambia recommends that the treaty should include aid and barter arrangements. It should address technical assistance or training provided in connection with, or maintenance and upgrades of, items falling within the scope of the treaty. It should also refer to ancillary services such as financing or insuring international transfers.

Zambia would like to propose that the treaty apply to all international transfers regardless of the identities of the parties to the transfer, including, inter alia, States or agents thereof, commercial operations, organized non-State groups or individuals.

Additionally, Zambia calls for interpretive statements that would mal treaty language as unambiguous as possible, especially as it relates to such subjective and qualitative elements as human rights and corruption, thus ma'king the scope comprehensive, as set out above.

Holy See

[Original: English]
[30 March 2012]

I. Preamble

Considering the impact of the illicit arms trade on development, peace, humanitarian law and human rights, the preamble should recognize that arms cannot simply be compared with other goods exchanged in global or domestic markets. Indeed, for this reason, they necessitate a specialized regulation capable of preventing, combating and eradicating the irresponsible and illicit trade of conventional arms and related items.

It seems appropriate that the preamble note the need to prevent illicit arms proliferation by reducing the demand for arms, which often feeds the illicit market, through educational initiatives and public awareness programmes involving all sectors of society, including religious organizations, aimed at promoting a culture of peace.

II. Principles and goals

The first principle of the treaty should be linked to the pursuit of a world more respectful of human life and human dignity.

Among the foundational principals of the treaty, it is necessary to recall respect for human dignity and human life, peace and security, development and fundamental human rights, which are essential for collective security.

In recognizing that disarmament, non-proliferation and arms control are essential for the maintenance of international peace and security, it seems appropriate to refer to Article 26 of the Charter of the United Nations, which promotes the "establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources".

III. Scope

The scope of the treaty should be broad and comprise not solely the seven categories considered by the United Nations Registry of Conventional Arms but also small arms and light weapons and their respective ammunition, as well as the trading and licensing of technologies involved in their production.

IV. Criteria

References to human rights, humanitarian law and development should be among the application criteria and should identify, if possible, language that limits subjective possibilities for political manipulation and that facilitates the identification of modalities for the application of such criteria.

V. Implementation and international cooperation and assistance

Provisions regarding victim assistance should be retained and strengthened.

It seems appropriate to include references to reducing the demand for arms, which feeds the illicit market and accordingly remains a fundamental concern in preventing the illicit proliferation of arms. Along those lines, one could encourage educational initiatives and public awareness programmes involving all sectors of society, including religious organizations, aimed at promoting a culture of peace and opposing a culture of criminality and violence.

Each State party in a position to do so, and where appropriate, may offer or receive assistance for the care, rehabilitation and social and economic reintegration of the victims of armed conflict and for promoting the aforementioned educational and public awareness programmes.

Such assistance may be not solely technical or material in nature but also humanitarian and can be provided, inter alia, through the United Nations system, through international, regional, subregional or national organizations, through non-governmental organizations or on a bilateral basis, as appropriate.

References to cooperation and to international assistance should be strengthened in order to facilitate the correct implementation of the treaty, even on the part of States that lack capacity for gathering and maintaining data for the preparation of reports and for the improvement of transparency in the arms trade.

VI. Final provisions

Mechanisms for reviewing and updating the treaty must be strong and credible, and capable of incorporating expeditiously new developments in the field of the treaty, which must be open to possible future technological developments.

European Union

[Original: English]
[4 April 2012]

Introduction

The European Union is fully supportive of the United Nations process leading to the adoption of an arms trade treaty, a new legally binding international instrument setting the highest common international standards to regulate international transfers of conventional arms. The European Union considers that the Chair's non-paper of 14 July 2011 on the treaty provides a rich synthesis of all the views expressed in the session of the Preparatory Committee and serves effectively as a reference document for the conference on the treaty, to be held in July 2012. The present European Union contribution is meant to complement views expressed in various statements at the Preparatory Committee and in replies to the Secretary-General of July 2011 pursuant to General Assembly resolution 64/48, and of May 2007 pursuant to resolution 61/89.

Preamble and principles

The European Union considers that the preamble and principles section of the treaty should refer to the context and the history of the treaty process. It should make reference to the founding principles of the treaty. Attention should be paid to the accuracy and non-selectivity of references to principles and purposes of the Charter of the United Nations.

Goals and objectives

In the view of the European Union, the main goal of an arms trade treaty shall be to regulate legal international transfers in conventional arms, through the establishment of the highest common international standards for transfers of conventional arms to be applied at the national level in the assessment of such transfers. By regulating the legal trade in conventional arms, an arms trade treaty should also contribute to preventing the illicit and irresponsible trade in conventional arms and the diversion of transferred weapons to unintended and unauthorized users. The standards established in such a treaty shall prevent transfers that contribute to internal repression or to serious violations of human rights and international humanitarian law. An arms trade treaty will contribute to reinforcing peace and security, regional stability and sustainable social and economic development, and promote transparency and accountability at the national level in transfers of conventional arms and related material.

Scope

The scope of the treaty should define both the types of items and the activities that should be regulated. As far as items are concerned, the European Union is of the opinion that an arms trade treaty should cover all military conve onal weapons and systems, including small arms and light weapons, and munitions.

Transactions and activities

As for the activities to be covered, the European Union considers that an arms trade treaty should require controls on transfers such as export, re-export, import, transit and trans-shipment and brokering of military systems covered by the scope. Different control provisions for different types of transfers should be envisaged.

Criteria and parameters

Arms exports controlled under an arms trade treaty will have to be assessed by States parties against a number of parameters that the European Union considers should be comprehensive and ambitious. In the case where an arms export does not comply with relevant legally binding obligations mentioned in the parameters, or when there is a clear risk that transferred arms contribute to serious violations of human rights or international humanitarian law, States parties shall deny such export. In other cases, the decision on whether to authorize an arms export should be the result of a robust and well-informed risk assessment undertaken at the national level by States parties, in accordance with other criteria established in the treaty. The criteria as currently contained in the Chair's non-paper are a good starting point.

Implementation mechanism

The implementation of transfer controls in accordance with an arms trade treaty should be a national responsibility. Under the terms of the treaty, each State party shall ensure that its legal and administrative system enables it to control all items and transactions covered by the scope. Such a treaty should also contribute to the prevention of diversion of transferred arms into the illicit market or to unintended or unauthorized end users. To that end, States parties should ensure that any transfer of arms not authorized by the national control system is effectively prohibited and associated with sanctions as appropriate.

The treaty should also contain provisions on transparency regarding both national implementation and application. States parties shall report on measures they have adopted to ensure compliance with the provisions of the treaty. They shall maintain national records of assessed transfers and regularly report on exports authorized to the level of detail agreed in the treaty.

International cooperation and assistance

An arms trade treaty should include provisions on international cooperation and assistance, whereby States parties could seek assistance to complete their national implementation of the treaty. States parties in a position to do so could provide such assistance, including, inter alia, legislative assistance, institution-building, assistance in the development of necessary administrative measures and technical assistance for the development of appropriate expertise in all national

bodies involved in the transfer control system. European Union engagement in the area of international cooperation is already demonstrated by several outreach and capacity-building activities that it has been implementing in cooperation with the United Nations Institute for Disarmament Research over the past three years.

Final provisions

This section should include elements that are traditionally included in international treaties. The final provisions should also define the threshold number of States parties that need to ratify the treaty for its entry into force. Such a threshold should be quantitative rather than qualitative and sufficiently high.